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ABSTRACT

The national reclamation program was to encourage people to settle on the land, to enable them to own the land they farmed, and to spread the benefit of subsidized irrigation water to as many independent farm families as possible. The San Luis Unit of the Central Valley Project, the largest pumped water diversion and water storage project, was built largely to deliver water to the Westlands Water District, the largest single contractor for federally provided and subsidized water anywhere. This federally provided water has made the Westlands area one of the most richly productive agricultural areas in the country. In 1973, the gross value of farm produce in the Westlands District was $167 million, and the distribution system so far is delivering water only to part of the District. Yet, total Federal cost of the San Luis Unit, plus the cost of the huge water distribution and drainage system being built by the Federal government in the District itself, will amount to over one-half billion dollars. These joint hearings reexamined the Westlands Water District and the Federal expenditures that have been made there and reviewed how well, how effectively, and how fully the mandates of Congress were carried out. Among the witnesses were representatives of the National Farmers Union, National Land for People, United Farm Workers (AFL-CIO), the U.S. Department of the Interior, and Westlands Water District. (NQ)

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WILL THE FAMILY FARM SURVIVE IN AMERICA?

JOINT HEARINGS

BEFORE THE

SELECT COMMITTEE ON SMALL BUSINESS

AND THE

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
UNITED STATES SENATE

NINETY-FOURTH CONGRESS

FIRST SESSION

ON

WILL THE FAMILY FARM SURVIVE IN AMERICA?

PART 1

FEDERAL RECLAMATION POLICY
(WESTLANDS WATER DISTRICT)

JULY 17 AND 22, 1975

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
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July 17, 1975:

Morning session 1

July 22, 1975:

Morning session 95

(NOTE.—Exhibits and appendixes supplementing this hearing record will be printed in a subsequent volume.)

WILL THE FAMILY FARM SURVIVE IN AMERICA?: FEDERAL RECLAMATION POLICY (WESTLANDS WATER DISTRICT)

THURSDAY, JULY 17, 1975

U.S. Senate,
Select Committee on Small Business and
Committee on Interior and Insular Affairs,
Washington, D.C.

The committee met in joint session, pursuant to notice, at 10:10 a.m. in room 1202, Dirksen Senate Office Building, Senator Gaylord Nelson (chairman of the Select Committee on Small Business) presiding.

Present: Senators Nelson, Hathaway, Haskell, and Javits.

Also present: Select Committee on Small Business: William B. Cherkasky, staff director; Raymond D. Watts, general counsel; James S. Medill, counsel; Trudy Taylor, chief clerk; and Mary Conway, staff assistant; Committee on Interior and Insular Affairs: Russell Brown, professional staff member; and Committee on Labor and Public Welfare, Subcommittee on Employment, Poverty, and Migratory Labor: Gary Bickel, Ph. D., staff economist.

The Chairman. This is a joint hearing of the Select Committee on Small Business and the Committee on Interior and Insular Affairs.

Senator Haskell is representing the Interior Committee, and I am representing the Small Business Committee. Senator Haskell is also a member of the Small Business Committee.

I have an opening statement; in order to economize on the time, I will ask that it be printed in the record.

[The opening statement of Senator Nelson follows:]

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JOINT HEARINGS

before the

SELECT COMMITTEE ON SMALL BUSINESS and the COMMITTEE ON

INTERIOR AND INSULAR AFFAIRS, UNITED STATES SENATE

on

"WILL THE FAMILY FARM SURVIVE IN AMERICA?
Part 1--FEDERAL RECLAMATION POLICY (WESTLANDS WATER DISTRICT)"

Room 1202, Dirksen Senate Office Building

10 a.m., Thursday, July 17, 1975

OPENING STATEMENT OF SENATOR GAYLORD NELSON

This joint hearing is the first part in what is projected as a comprehensive series of hearings on the general question, "Will the family farm survive in America?" In all of these hearings there will be a central focus on the implications and effects of Federal law, policy and administration on the survival prospects of family farming. .

The Westlands Water District is the largest single contractor for Federally provided and Federally subsidized water anywhere in the history of the Federal Reclamation Program. The San Luis Unit of the Central Valley Project is the largest pumped water diversion and water storage project ever built, and it was built largely to deliver Project water to the Westlands Water District. It pumps, stores, and transports fresh water by canal for more than 170 miles to the Westlands area west of Fresno, and has the capacity to provide irrigation water to more than one-half million acres there. The total Federal cost involved in the San Luis Unit, plus the cost of the huge water distribution and drainage system being built by the Federal government in the Westlands District itself, will amount to well over one-half billion dollars.

We should note that the total assessed land value of all the voting members of the original Westlands Water District (which has since then been enlarged somewhat) amounted to only about $20 million before the coming of reclamation project water. Excessive pumping of the ground water was causing it to decline disastrously, the ground itself was subsiding due to the overpumping of water, and the whole area was in danger of reverting to dry land.

Senator Clair Engle of California described the San Luis Project, which he fought for, as a "rescue project" which was vital to

> "save good cropland from returning to
> sagebrush and sand."

Congressman B. F. Sisk, another strong supporter of the project, then and now, described the bleak prospects of some 20 thousand people living in the Westlands area:

> "They will have to leave and seek livings and homes elsewhere . . . starved out of existence by lack of water . . . . Most of the cultivated land which is the basis of their economy will revert to desert."

In the arid and semi-arid areas of the West, water is lifeblood. The Westlands area now, with the Federally-provided water, is a garden spot--one of the most richly productive agricultural areas in the country.

The gross value of farm produce in the Westlands District was $167 million in 1973, and the distribution system so far is delivering water only to part of the District.

So the reclamation program in Westlands seems a good investment of national resources.

But when public expenditures of this great magnitude are made and private benefits of enormous size are conferred through government subsidy, the Congress is duty bound to give the closest scrutiny to determine that these expenditures and subsidies are indeed serving the public purposes intended.

And in the case of the national reclamation program, there is literally no question but that one of its fundamental purposes and intents was to encourage the development of independent, small-business, family-sized farms--to settle people on the land or near it, and to enable them to own the land they farmed; to spread the benefit of subsidized irrigation water to just as many people--independent, bona fide farm families--as possible. Senator Jackson, Chairman of the Interior Committee, has written, and I am happy to quote him on this:

> "I firmly believe that the family farm is the ideal farming situation in our country."

And that position has been the foundation stone of our great fundamental pieces of agricultural legislation throughout the history of this country: the Homestead Act, the Reclamation Act of 1902 and its elaboration in the Act of 1926; the great New Deal farm legislation, and so on. And it has been the expressed intent of Congress over and over again, right up to the present.

The real question is how well, how effectively, and how fully the requirements of our legislation, the mandates of Congress, are carried out in practice; and that is the kind of question we are inquiring into today.

We now have more than 10 years of experience with the operations of the Westlands Water District in purchasing and using Federal Reclamation Project water. The basic Water Service Contract with Westlands was drawn up in June 1963 and the Distribution System Contract in April 1965. Farm operators within the District have been receiving the Federal Project water on one basis or another since at least 1964. And now the basic contracts between Westlands and the U. S. Government have been updated, consolidated, and revised, and this new revised and expanded proposed contract is presently before the Congress for the 90-day review period required by law.

So it is an opportune time to reexamine the Westlands Water District and the vast Federal expenditures that have been made there in bringing the land owners water.

Senator Haskell, Chairman of the Interior Subcommittee on Environment and Land Resources, is co-chairing this hearing and succeeding ones with me, on behalf of the Interior Committee.

The CHAIRMAN. Senator Haskell, do you have a statement for the record?

Senator HASKELL. Yes; I do. I will submit my statement for the record.

I would like to point out that in these series of hearings, we will first zero in on the Westlands situation, as a case history. When the Reclamation Act was first enacted, the first Commissioner of the U.S. Reclamation Service stated the object of the act very well. He said the object is not so much to irrigate land as it is to make homes. For this reason, obviously, the 160-acre limitation is very important.

Also, there are very substantial sums of money involved. The GAO has estimated that the subsidy to the farm operators who benefit from the Central Valley project would ultimately reach $1.5 billion.

I think it is a very important undertaking we are starting here under the joint chairmanship of Senator Nelson, who is the chairman of the Small Business Committee, and myself, representing the Interior Committee. I am also a member of the Small Business Committee.

With that, Mr. Chairman, we might hear from the first witness.

[The opening statement of Senator Haskell follows:]

JOINT HEARINGS

before the

SELECT COMMITTEE ON SMALL BUSINESS and the COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS, UNITED STATES SENATE

on

"WILL THE FAMILY FARM SURVIVE IN AMERICA?
Part 1--FEDERAL RECLAMATION POLICY (WESTLANDS WATER DISTRICT)"

Room 1202, Dirksen Senate Office Bldg.

10 a.m., Thursday, July 17, 1975

OPENING STATEMENT BY SENATOR FLOYD K. HASKELL

It is very appropriate that today's hearings--the first of a series of hearings on the prospects for the family farm in America--are being conducted jointly by the Small Business Committee and the Interior Committee.

As a member of both, I am happy to be co-chairing these hearings with Senator Nelson. Both committees have a long history of concern with the condition of the family farmer and the effects of federal government programs on him.

There is probably no other federal government program with greater potential for directly benefitting small, independent family farmers than the federal reclamation program. The original Reclamation Act of 1902, the foundation of American reclamation law, provided that no irrigation water from federally-built projects should be provided to owners of more than 160 acres--and only then when they were bona fide farm families living on or in the neighborhood of their land.

Teddy Roosevelt was one of the great early champions of the family farm concept. F.H. Newell, his first Commissioner of the U.S. Reclamation Service (now the Bureau of Reclamation) stated very well what the authors of the U.S. reclamation program intended:

> "The object of the Reclamation Act is not so much to irrigate the land as it is to make homes. President Theodore Roosevelt in his message to this Congress today, and in every previous message to this Congress and to the Congress of the United States, has emphasized again and again that the primary objective of the law was to make homes. It is not to irrigate the lands which now belong to large corporations or to small ones; it is not to make these men wealthy; but it is to bring about a condition whereby that land shall be put into the hands of the small owner, whereby the man with a family can get enough land to support that family, to become a good citizen, and to have all the comforts and necessities which rightly belong to an American citizen."

One of the Congressional sponsors of the 1902 act described it this way:

> "The bill is drawn exclusively for the protection of the settler and actual home builder, and every possible safeguard is made against speculative ownership and the concentration of the lands or water privileges into large holdings."

Of course, U.S. reclamation law has been greatly expanded and developed since 1902. But its support of the family farmer has remained throughout, reiterated time and again. For example, the San Luis Act of 1960, the authorizing Act for the great facilities which serve the Westland area, explicitly included the traditional 160-acre limitation of U.S. reclamation law despite some heavy opposition at the time.

And as recently as 1966, in hearings on the Westlands Water Dist., Assistant Interior Secretary Kenneth Holum said:

> "As a final point, I should like to emphasize continuing and keen interest of the Department in furthering the interests of the family farm concept in our irrigated agricultural programs. The Reclamation program has traditionally sought to foster much family farm developments. We believe it has been successful in this respect. Of major significance is the uncontestable fact that the

> Reclamation program, among all the federal assisted water resource development programs, has the most specific requirements and controls designed for the exclusive benefit of the family farmer.
>
> We believe that the decisions of the Department on the Westlands contract, as well as on other recent important questions involving the Reclamation program, have strengthened the role of Government in fostering family farming."

Clearly, the reclamation program has always been a people program, not just a water program. And this is as it should be; federal expenditures involved in building and operating these great water diversion, water storage and water distribution projects involve, as Sen. Nelson pointed out, huge elements of direct government subsidy over many decades to the farm operators who buy and use the water.

The basic contracts between the U.S. government and the Westlands Water Dist. provide that the federal share of capital costs in the San Luis Unit, as well as all the capital costs of the Westlands distribution system itself, will be paid back by the landowners of the district over a period of 40 years. But the great amounts of capital tied up in these facilities are made available by the U.S. government absolutely interest-free. This is the source of the huge subsidy involved.

The General Accounting Office has estimated that the total amount of the subsidy to the farm operators who benefit from the Central Valley Project as a whole would ultimately reach $1.5 billion in interest charges foregone. For 1971 alone, the GAO estimated that the amount of these subsidies enjoyed by just the 10 largest operators in the Westlands Dist. amounted to more than $1.7 million. And that estimate is based on assumed interest rates of from 2.5 to 3 per cent. The total subsidy would be considerably larger to today's much higher interest rates.

In these circumstances, it is clearly essential for Congress to review very carefully the expenditures involved. We must make certain that they conform to the intentions of Congress and to the public interests they are intended to serve. It is our obligation to the taxpayers of this country to exercise this oversight function diligently. In fact, it may be one of the most vital functions we ever perform.

Our hearings today on the Westlands Water Dist. are certainly timely. We have here one of the major test cases in the actual carrying out of the U.S. reclamation program. Westlands is the largest example by far of federal reclamation project water provided to private landowners. Many of these are owners of large excess land holdings and are required to put these excess lands under recordable contract and to eventually sell them in tracts of 160 acres or less in order to receive federal project water.

We want to learn the extent to which these excess land sales are creating new opportunities for independent farm ownership and bona fide family farm operations in the Westlands. We are also very interested in the new proposed operating and repayment contract between Westlands and the U.S. government which the Bureau of Reclamation recently approved and which is now awaiting Congressional review.

In particular, we are concerned about the extremely important and major additions to the existing Westlands contracts which are included in the proposed new contract. We want to learn a good deal more about these substantial new contract provisions and their implications for long-run water and land use patterns in California's Central Valley.

We hope to find some of the answers today and in the second hearing which is scheduled for next week.

The CHAIRMAN. Our first witness today is Mr. David M. Weiman, legislative assistant for the National Farmers Union. Mr. Weiman, do you have a prepared statement?

Mr. WEIMAN. Yes; I do. I would like to submit a statment for the record, and I will refer to it, paraphrase it, and summarize it.

The CHAIRMAN. It will be printed in the record, and you may proceed however you desire.

[The prepared statement of Mr. Weiman follows:]

National
Farmers Union

Statement of

David M. Weiman
Legislative Assistant
National Farmers Union

on

The Effect of Federal Law and Policy
on Family Farming,
with Special Reference to the
Westlands Water District as an
Example of the Law and Policy

before
A Joint Hearing of the
Senate Small Business Committee
and the
Senate Interior and Insular Affairs Committee

July 17, 1975

Senator Nelson, Senator Haskell, and members of the Committee: I am David M. Weiman, Legislative Assistant with the National Farmers Union. Our offices are at 1012 14th Street, N.W., Washington, D.C. 20005. We appreciate the invitation and the opportunity to present testimony on the survival of the family farmer ans specifically, the Westlands Water District.

Family farmers make up our membership throughout the country. We are concerned with their survival, their economic stability, and their prosperity. And, we want a healthy and thriving rural America.

Furthermore, in general, we are concerned with the role of the federal government in sustaining and promoting the family farmer.

Regarding Westlands, some have accused us of being opposed to irrigation. Nothing could be more distorted. However, Farmers Union will not support programs intended for family farmers, but diverted to agribusiness giants and tax-dodge created entities.

Mr. Chairman, when Angus McDonald appeared before you in 1964 representing the National Farmers Union, he said the following:

Suite 1200, 1012 14th Street, N.W., Washington, D.C. 20005 – Phone (202) 628-9774

> "Mr. Chairman and members of the committee, the historic position of the National Farmers Union in support of any legislation whatsoever which encourages, fosters, and preserves the family farm is well known. It has been the cornerstone of our policy since the founding of the organization in 1902. The preservation of the family farm is repeatedly emphasized in our resolutions, adopted in county, State, and national conventions.
>
> "We consider the so-called 160-acre limitation a part of the Reclamation Act of 1902, the economic Magna Carta of family farmers who are directly or indirectly dependent on irrigation water impounded behind dams financed with Federal funds. We therefore have supported, year in and year out, all of the reclamation projects authorized by the Congress believing that those administering reclamation laws would adhere to, not only the letter, but the spirit of the 160-acre limitation."

Now eleven years, later, on behalf of the same organization, I merely want to state, things haven't changed.

In March, at our most recent National Convention held in Portland, our members adopted the following policy regarding the excess land laws:

> "We urge the strict enforcement of the 160-acre limitation, including residency requirements, in governing the use of water in federal irrigation projects."

As recently as last May, our State President from South Dakota, Ben Radcliffe, presented testimony to the Congress supporting a South Dakota reclamation project, stating:

> "We believe that the Oahe Irrigation Project can serve as a major boon to family farming in the project area. One of the most positive aspects of the project is the 160-acre individual limit governing the use of water in federal irrigation projects. Strict enforcement of this ruling can mean a revived and healthy family farm economy in the affected area. And a healthy family farm economy means a renewed vitality for all rural communities in the area."

Regarding the "Institution of the Family Farm," our membership adopted the following:

> "A national commitment and positive measure to preserve and strengthen the family farming system as the basic pattern in American agriculture."

Other policy statements include the prohibition of non-farm corporations entering agriculture and we call for changes in the tax codes which are aiding and encouraging non-farm interests to invest in agriculture.

THE HISTORICAL PROMISE

Mr. Chairman, it would be useful to remind the committee why the 1902 Reclamation Act contains provisions limiting the benefits--the subsidies--and prohibits speculation.

During the opening of the public domain in the West, history tells us a story, filled with corruption and scandal. Attempts by the Congress to open and populate the West were either short-sighted and therefore failed, or were corrupt from the start. History is replete with accounts of unscrupulous and devious land barons stealing the public domain.

Much of the millions and millions of acres of public land, intended for settlers, ended up in the hands of greedy speculators. In California, Henry Miller, penniless upon arriving in California amassed a staggering 14 million acres before he died. Under the Swamp Lands Act of 1850, the government gave title to swamp lands without charge if the owner agreed to drain them. Miller, knowing the law stipulated the land had to be submerged and traversable only by boat, hitched a rowboat to a team of horses, and crossed the grasslands soon to be his.

Other colorful and unscrupulous characters also fill the pages of California history. Haggin and Tevis, land barrons to be, matched the sly and cunning ways of Henry Miller to amass enormous land holdings in the southern part of the Central Valley. Under those landholdings, ultimately to be known as the Kern County Land Company, oil was found. In 1967, Tenneco purchased KCL. Today, it is still one of the largest ranches in the state.

And, the Congress provided other land give-away acts such as the Desert Land Act and the Timber and Stone Act, both of which were subject to similar abuses.

It was the abuse of these acts that led Congress and President Roosevelt to incorporate anti-monopoly and anti-speculation provisions into the Reclamation Act of 1902. Moreover, it is those provisions which are the subject of controversy today -- some seventy years later.

According to Professor Joseph Sax in "Waters and Water Rights,"

> "These land and water monopoly scandals set the stage for the development of a new political movement which led the struggle for a land policy that favored the family farm in fact as well as in theory. Such a movement was one of the essential preconditions to the development of federal reclamation policy, and it was the product of tragic experience in the early disposition of the public domain."

The House Committee Report on the Reclamation of Arid Lands (57 Congress, 1st Session, Report No. 1468) supports this feeling that developed in Congress.

> "No more defendable measure has ever been presented to any Congress. No measure relating to the settlement and development of the public lands has ever been so carefully guarded in the interest of the home maker and against the designs of the speculative entryman. No legislation presented to an American Congress has had all of its provisions more carefully and thoroughly considered in all their bearings."

President Roosevelt enthusiastically supported the concept. In his message to the 57th Congress, talking about the reclamation program, he said, "Our people as a whole will profit, for successful home making is but another name for upbuilding the nation."

In describing the controversial section 5, the House Report simply states, "Section 5 defines the duties and obligations of the entryman, provides that he shall make his home upon his land..."

The cornerstone of reclamation policy is founded in section 5 of the 1902 Reclamation Act: "No right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona fide resident on such land, or occupant thereof, residing in the neighborhood of said land..."

Throughout our history, starting with the debate on the bill, the Congress and Administration officials throughout the years have reaffirmed the principle in the act.

During the debate in the House of Representatives, South Dakota Congressman Eben Martin Said:

> "The bill is drawn exclusively for the protection of the settler and actual home builder, and every possible safeguard is made against speculative ownership and the concentration of the lands or water privileges into large holdings."

Congressman Frank Mondell of Wyoming, assuring the achievement of the public policy goals, said during the same debate:

> "No law ever presented to any legislative body has been so carefully drawn with a view of preventing the possibility of speculative ownership on lands..."

He said further:

> ". . . Under nearly every project undertaken by the Government there will undoubtedly be some lands in private ownership; and it would be manifestly unjust and inequitable not to provide water for those lands,

> providing their owners are willing to comply with the conditions of the Act; and in order that no such lands may be held in large quantities or by nonresident owners, it is provided that no water right for more than 160 acres shall be sold to any landowner, who must also be a resident or occupant of his land. This provision was drawn with a view to breaking up any large land holdings which might exist in the vicinity of Government works and to insure occupancy by the owner of the land reclaimed."

Three years after the enactment of the Reclamation Act, the first Director of the U.S. Reclamation Service, F.H. Newell, said in a speech delivered to the National Irrigation Congress:

> "The object of the Reclamation Act is not so much to irrigate the land as it is to make homes. President Theodore Roosevelt in his message to this Congress today, and in every previous message to this Congress and to the Congress of the United States, has emphasized again and again that the primary objective of the law was to make homes. It is not to irrigate the lands which now belong to large corporations or to small ones; it is not to make these men wealthy; but it is to bring about a condition whereby that land shall be put into the hands of the small owner, whereby the man with a family can get enough land to support that family, to become a good citizen, and to have all the comforts and necessities which rightly belong to an American citizen."

In an attempt to control speculation which was occurring, Congress passed the Patents and Water-Rights Certificate Act in 1912 and the Reclamation Extension Act of August 13, 1914.

According to Professor Sax, in "Waters and Water Rights,"

> "Formidable as these provisions might seem, they were quite ineffective; an independent fact-finding commission reported in 1924 that, in its antimonopoly and antispeculation purposes, the reclamation law had failed. The basic reasons for failure were these: first, the arrangement used for controlling the sale price did not prevent sales to middlemen who were free to resell without restriction; second, and perhaps even more important, sales of excess lands were required only after the issuance of public notice, which was often delayed indefinitely, and the law was interpreted to permit the delivery of water to excess lands prior to their sale. Excess-land owners were thus able to receive project water for their excess lands for very long periods--precisely the result the reclamation was was designed to prevent; and when they did sell, they were able to reap as

> speculative profit the capitalized value of the federal subsidy. It need hardly be said that these results were due to more than merely technical loopholes in the statutes. Then, as now, administrative interpretation and enforcement of the excess-land law was less than vigorous."

To correct the problems identified by the Fact Finders Commission (1924) and stiffen the provisions in the law, two years later Congress enacted the Omnibus Adjustment Act of 1926.

Section 46* adopts the recommendations of the Fact Finders Commission and is presently the governing section of the law.

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*Landownership Survey on Federal Reclamation Projects, Bureau of Reclamation, 1946.

The principal statutory provisions and administrative rulings which are designed to carry out these policies are summarized as follows:

II. LANDS IN PRIVATE OWNERSHIP

9. Prior to payment in full of construction charges, water may not be delivered to lands held in private ownership by any one owner in excess of 160 acres of irrigable land unless the owner agrees to dispose of the excess land at the price at which it is appraised by the Secretary of Interior.

Section 5, Reclamation Act of 1902.
Section 3, Act of August 9, 1912.
Section 12, Reclamation Extension Act of 1914.
Section 46, Omnibus Adjustment Act of 1926.

10. Although the Secretary of the Interior was clothed with authority by Section 3 of the Act of August 9, 1912, and Section 12 of the Reclamation Extension Act of 1914 to require the owners of private land to dispose of all lands in excess of that sufficient for the support of a faimly, Section 46 of the Omnibus Adjustment Act of 1926 defines excess lands in private ownership as lands held by any one owner in excess of 160 irrigable acres, and the Secretary has construed these statutes to deny him the power in the absence of consent of the water users to establish the limit of land in private ownership on any new project to which water may be delivered at less than 160 acres.

It requires that excess land holders, who desire to receive project water, must sell (divest) the land in excess of 160 acres to a non-excess landowner and that the price of the land sold be the pre-water, pre-project price. The latter requirement has been administratively ignored. Rather they have chosen a pricing formula that reflects substantial market value. Thus, the speculative increment, designed by law not to be available to the original landowner, nevertheless makes its way into the pockets of the sellers.

The Bureau of Reclamation in 1946 published, Landownership Survey on Federal Reclamation Projects. In describing the history of the program in a chapter entitled, "The Historical Background of Reclamation Law and Policy with Respect to Excess Land Limitation," the Bureau states:

> "Another Commissioner of Reclamation, Harry W. Bashore, in addressing the National Reclamation Association at Denver, in November 1945, expressed again the need for acreage limitation in order to preserve family-size farms and to prevent the concentration of land in large ownerships. At the same meeting, Assistant Secretary of the Interior, Michael W. Straus (now Commissioner of Reclamation) said:
>
> "'But there is another basic corollary in the original law that blazed the way to low-cost water that was written at the same time as the repayment principle with the same wisdom and for the same broad purpose of winning Federal financial support from the whole Congress for low-cost water. That is the restriction on the acreage in individual ownerships to which Federal reclamation may deliver water. It is designed to spread the benefits of Federal irrigation to the greatest numbers ...
>
> "'The Congress of the Nation, as a whole, would vote and has voted reclamation money to the West because the Congress, as a whole, had assurance, written right into the law, that that money would go to private individuals--including settlers from the East--with the low-cost water that would make it possible for them to establish, with an American standard of living, family-sized farms in arid areas.'"

In 1945, Solicitor Harper, in Opinion M-33902, states:

> "Generally speaking, the excess land provisions of reclamation law represent a firmly established, time-honored, and sound public policy which seeks to achieve the twofold purpose of preventing speculation and of spreading the benefits of a reclamation project among the larger group of small landowners rather than confirming those benefits to the relatively smaller group of large landowners. These excess-land provisions are of general applicability to all reclamation projects."

A 1958 Supreme Court decision, in Ivanhoe v. McCracken said:

> "It is a reasonable classification to limit the amount of project water available to each individual in order that benefits may be distributed in accordance with the greatest good to the greatest number of individuals. The limitation insures that this enormous expenditure will not go in disproportionate share to a few individuals with large landholdings. Moreover, it prevents the use of the federal reclamation service for speculative purposes. In short, the excess acreage provision acts as a ceiling, imposed equally on all participants, on the federal subsidy that is being bestowed."

The acreage limitation and residency requirements of the excess land laws have been the subject of considerable litigation recently. The federal government in the 60's brought suit against the Imperial Irrigation District for refusing to apply the acreage limitation laws to its vast amount of excess acres. In 1971, the Federal District Court ruled that, because of a special letter exemption granted in 1933, the law didn't apply in Imperial. Presently, the case is on appeal, however, the federal government didn't appeal the case. A feisty physician, Dr. Ben Yellen, in Brawley, California, intervened on behalf of himself and several landless people who desired to farm and forced appeal when the government refused to appeal it.

A series of contradictions as to why the appeal was dropped by the Justice Department subsequently came to light. Reportedly even Charles Colson was doing a "background" study for the White House during the appeal period.

The Solicitor General also wrote a letter to a Midwest woman which contained so many inaccuracies that Professor Sax publicly chastised Solicitor General Griswold in a rather heated exchange of correspondence over the glowing errors.

Also in the mid-60's, Dr. Yellen sued the federal government to enforce the residency clause of the law, the second half of the all-important sentence in Section 5 of the 1902 Act -- something they managed to ignore over the years. In 1971, in a Partial Summary Judgement, Judge Murray ruled that residency applied.

The following year, Murray issued his Opinion and Findings of Fact and Conclusions of Law.

The decision strongly upholds the law and reaffirms its principle. Judge Murray found:

> "The failure to apply the residency requirment is contrary to any reasonable interpretation of the reclamation law as a whole, and it is destructive of the clear purpose and intent of national reclamation policy."

He found further that:

> "Administrative practice cannot thwart the plain purpose of a valid law."

The Justice Department, after telling Senator Clinton Anderson that they were dropping the acreage limitation case because it was a matter for Congress and not the Courts, immediately appealed the Murray decision. Subsequently, the acreage limitations and residency cases were consolidated and are now pending before the Ninth Circuit Court in San Francisco. The cases have been under submission since a year ago May.

Therefore, Mr. Chairman, over the many years since enactment of the Reclamation Act, the Congress, the Courts, and the administrators of the reclamation program have reaffirmed that the establishment of family farming is the policy and purpose of the law.

THE WESTLANDS PROMISE

Having traced the general history of the reclamation "promise" and program, the logical question to ask is: Does it apply to Westlands? The answer is an unqualified yes.

Before doing that, however, it might be useful for me to briefly describe Westlands for the Committees' new members. The Westlands Water District, 600,000 fertile acres, is located in the San Joaquin Valley, west of Fresno, California. The acreage, tucked beneath the Diablo Mountains, is approximately 70 miles in length and 15 miles wide.

According to the Bureau of Reclamation, agricultural production from the area was approximately $167 million in 1973. Principle crops include cotton, barley, alfalfa, "hard-tomatoes," safflower and cantaloupe.

The only town within the boundaries of the district is Huron.

The district was formed under California law in 1952 as a water district. As such, voting in the district is based, not on the one-man, one vote principle, but rather on assessed valuation. Thus, Southern Pacific, owning approximately 120,000 acres in the district, controls approximately 20% of the district's vote.

Southern Pacific has always maintained a position on the Westlands Board, but in its 23-year history, few, if any of the board members were non-excess landowners. Rather, they were large excess landowners.

A number of expressed attempts to exempt the entire Central Valley Project from the excess land laws failed. In 1944, lead by Wisconsin's Senator Robert LaFollette, the Senate and the Congress rejected California Senator Sheridan Downey's attempt to exempt the excess land laws from the Central Valley Project. In 1947, Senator Downey again made the attempt. The bill, S. 912, included provisions repealing the acreage limitation, anti-speculation and residency clauses of reclamation law. The hearings, receiving widespread attention, ran more than 1300 pages of testimony. The bill wasn't even reported out of committee.

When the San Luis Act was debated, both committtes reported bills expressly exempting the application of the excess land laws from the State Service Area. Led by Senators Morse and Douglas, those attempts were reversed -- both Houses of Congress rejecting them on the floor.

Moreover, the hearings on the San Luis Act clearly establish that the overall reclamation promise made over the years and promises made about San Luis were synonymous. During hearings on S. 1887, March 17 and 18, 1958, Congressman Sisk, from Fresno said, "If we have this water we will keep 500,000 acres under intensive cultivation and we will gain fine people, homes, prosperous communities and small businesses growing out of a stable agricultural community." Congressman Sisk again spoke for the project the following year in hearings on S. 44.

> "We are not merely trying to irrigate land or create crops or reclaim desert, except as these enterprises may be used as tools to promote the welfare of the people of the United States, to provide them with homes and businesses, to improve their opportunity to make a living and raise their families and enjoy the freedoms and opportunities of America.
>
> "It is with these human values of the San Luis project that I am primarily concerned..."
>
> "But if San Luis is built, according to careful studies, the present population of the area will almost quadruple. There will be 27,000 farm residents, 30,700 rural nonfarm residents, and 29,800 city dwellers; in all, 87,500 people sharing the productivity and the bounty of fertile lands blossoming with an ample supply of San Luis water.
>
> "Why will this land support four times as many people if this project is built? Because it is inevitable and historic that under the impact of reclamation laws, as well as the economics of farm management and operation, these lands will break down into family-size units, each cultivated by individual owners and their families, a scale of farm operation which is largely impossible under president conditions of high costs and water uncertainty. Without an assured water supply, as you must realize, our lands cannot be operated in units which with water, would provide a family living.
>
> "Recent surveys show that the land proposed to be irrigated is now in 1,050 ownerships. These studies

> show that with San Luis built, there will be 6,100 farms, nearly a sixfold increase. And in the breaking up of farms to family-size units, antispeculation and other provisions of the reclamation laws will assure fair prices."

Sisk then points out that agriculture production might change in Westlands if the project is built.

> "Today the main crops are grain and cotton, which lend themselves to larger scale farming operations, with a minor acreage of irrigated field and truck crops. With San Luis built, studies show, the emphasis will shift to truck crops, field crops, alfalfa, fruits and grapes and irrigated pasture."

> "As we sit in Congress considering these matters and trying to serve the people of our districts and the Nation, we are concerned with more homes, more farms, more businesses, and more opportunities for the people making up our rapidly expanding population. We are seeking to make our great land resources available to provide more and better living for more people. This, I believe is the real and ultimate goal of the reclamation policy laid down by Congress more than a half century ago, not merely to irrigate land and produce crops."

Congressman Sisk beautifully sums up the purpose and the promise. He describes both the overall reclamation program -- the justification for the nation's undertaking of the enormous public investment and expenditure -- as well as the specific reasons for the San Luis Unit.

However, in the early 60's opposition grew against the project, not because those persons and groups were against irrigation development, but because the benefits of that project were likely to go only to a select few; the benefits of the project were likely to be denied to the "intended beneficiaries;" and because it was evident from the start that the excess land laws would not be properly enforced. Farmers Union stood with the National Catholic Rural Life Conference, the AFL-CIO, the National Sharecroppers Fund, National Rural Electric Cooperative Association and others because we feared that the family farm as envisaged by the program would never be a reality.

In 1964, Senator Nelson chaired a hearing on the Westlands contract. The issues in 1964 were:

1) that circumvention of the excess land laws existed and that an honest and forthright program to implement the reclamation program was absent.

2) that about 70 percent of the lands within the Westlands Water District service are ineligible to receive project water

because they are owned in tracts the acreage of which far exceeds the 160-acre limitation.

3) all the lands within the water district--the 30 percent of eligible and 70 percent of ineligible alike to receive water--overlie a vast ground water basin which is in no sense compartmented on the basis of land eligibility.

4) that one of the specific objectives of the project is to raise and stabilize the water level at about 300 feet. The waters thus induced underground will recharge the ground water for both the lands which are eligible to receive ground water and those which are ineligible to receive ground water by reason of the excess land laws.

5) that the recharge of the depleted ground waters under the ineligible lands results in immense benefit, vastly subsidizing those lands at the expense of the individual landowners who comply with the excess land laws.

6) the unavoidable clause in the contract will insure that ineligible lands and large landowners will benefit thereby circumventing the spirit and intent of the reclamation laws. In brief, the unavoidable clause holds that the district will not be deemed responsible if large landowners who have not signed recordable contracts pump project water that has reached the underground strata. This is considered to be an unavoidable by-product of delivering water to eligible lands.

In a colloquy with Senator Nelson, Assistant Secretary Holum restates the purpose and policy of the program.

> "Mr. Holum. May I make a comment? We have covered a wide range here, including broad policy matters in addition to this contract.
>
> "What I have to say now I have to preface by reminding the members of the subcommittee that I am a small farmer from South Dakota, that all of my prejudices, if I have them, relate to the small farmer and the necessity of keeping individual farmownership on our land in this great country of ours. I am very proud at the present time to have the opportunity to work with the Department of the Interior and particularly with the Bureau of Reclamation, which has one of the positive programs--some say the only positive program, but at least one of the positive programs--in the Federal establishment for maintaining small farm ownership.
>
> "I think it is an important program. And I am sure that the fact that it is one of the few programs that we have dedicated to maintaining farmownership on the land for small farmers has made it the center of a great deal of attention, and properly so. I am happy that the program gets this attention. There are other people

who have this concern with respect to landownership and maintaining family farms on the land.

"With respect to this contract, the questions we have had, the questions that were raised and the Secretary's response to the committee's request for a review by the Bureau of Reclamation on excess land policies. I think some good points have been raised. I think we have had a good discussion this morning.

"I think that our thinking up to this time, first of all, of course, this project was authorized by the Congress with full knowledge of the reclamation law and the reclamation policy and how the Department of the Interior would normally administer it. But our program is based on providing economic incentives for achieving small landownerships. I think we have those economic incentives in this contract that the committee is considering this morning.

"I think, as we talk about the general policy matter, particularly in the context of saying this contract should not go forward or this distribution system should not be built because this excess landowner has not signed up. I think we also want to take a look at the other side of the coin, what we are doing to the many small landowners in this project if we say we are not going to build this project because this one landowner has not complied with the excess land laws.

"The other side of the coin is that we shall be denying the small landowner who urgently needs this assistance. We shall be denying to him and his family and to the country the benefit of this project because we are unhappy with one landowner.

"I think we want to be very careful that we look at both sides of the coin as a part of our great concern for these landowners, the small landowners, and I certainly share this deep conviction that we have their interest at heart. I would not have recommended this contract for Secretary Udall's approval if I had not been sure that the economic incentives which are here in accordance with reclamation law are required to achieve the goals that Congress and we in the Department of the Interior have for this program.

"We believe in excess land laws, and we intend to administer them faithfully, and I think we have in this contract. I think the economic incentives are here and the end product will be the type of farmownership that we want in this area of California."

Two years after the hearings on the Westlands contract, several people asked you to again convene a congressional hearing because it was evident that the Bureau had little intention of enforcing the letter of the intent of the law.

Though Assistant Secretary Holum was unable to be present at the July 29, 1966 hearings, then Assistant Commissioner Gilbert Stamm delivered a six-page letter from him addressed to the Committee Chairman, Senator Jackson. In closing the letter, the Assistant Secretary says:

> 'As a final point, I should like to emphasize continuing and keen interest of the Department in furthering the interests of the family farm concept in our irrigated agricultural programs. The Reclamation program has traditionally sought to foster such family farm developments. We believe it has been successful in this respect. Of major significance is the uncontestable fact that the Reclamation program, among all the federally assisted water resource development programs, has the most specific requirements and controls designed for the exclusive benefit of the family farmer.
>
> "We believe that the decisions of the Department on the Westlands contract, as well as on other recent important questions involving the Reclamation program, have strengthened the role of Government in fostering family farming."

In addition to these statements, the Department, at the time, was engaged in voluminous correspondence with Professor Taylor in California, the AFL-CIO, Father Vizzard, numerous Congressmen from California and around the nation, as well as the office I represent. The position of the Bureau, on paper, remained unchanged.

To my knowledge, excluding correspondence, the Assistant Secretary's July 1966 letter to the Committee is the last public statement about Westlands. (Several years later, to comply with NEPA, the Bureau filed an impact statement we consider to be wholly inadequate, but that is discussed later in the testimony.)

It is now nine years later. Much of Westlands has been built. A substantial amount of land has been placed under recordable contract. Land, vast amounts of it, has been sold, allegedly, pursuant to the terms and conditions of the recordable contract.

Let's now examine some of those sales and the committee can assess for itself whether or not these sales meet the criteria outlined by the Bureau itself over seventy years.

Before doing that however, it might be useful to comment on a couple of points just made.

First, regarding statements made by Congressman B.F. Sisk during the authorization hearings. Sisk quotes various studies which estimate that the population will increase in the district fourfold to 27,000 farm residents resulting from the increased prosperity and division of lands subject to recordable contract. According to Mr. Lawler of the Westlands Water District, today there are approximately 6,000 residents in the area. I believe the estimate to be high, but nonetheless, it is substantially lower than the prediction.

Secondly, Sisk quotes studies predicting that farms will increase sixfold from 1,050 to more than 6,000. Sadly, Mr. Lawler also informed me that today, there are 214 farms -- a fivefold decrease.

Those figures underscore the concern Farmers Union has that the program is failing and unless the Congress demands full and forthright compliance by the Bureau, Congress and the people will have invested millions for a few priviledged individuals.

Another point of contention is the letter agreement submitted to Senator Jackson by Assistant Secretary Holum dated October 7, and printed on the last pages of the 1964 Westlands Hearings Record.

And Senator, you will recall that, as a result of the hearings in 1964, the Bureau amended the contract. On October 7, Interior Secretary Udall signed a memorandum approving amendments to the contract. The most notable change was the requirement that the ground water not be recharged, pumping required to prevent "unavoidable" delivery of water to excess lands.

First, the GAO scored the Bureau in a report released in 1970 entitled, "Questionable Aspects Concerning Information Presented to the Congress on Construction and Operation of the San Luis Unit, Central Valley Project." B-125045.

The GAO found:

FINDINGS AND CONCLUSIONS

> "The Department's feasibility report for the San Luis Unit, which was submitted to the Congress in 1956, stated that an important purpose of the Unit, in addition to providing water to irrigate eligible lands, was to replenish the groundwater and to stabilize the level of the groundwater in the area. In 1965, however, the Bureau amended its water-service contract with the Westlands Water District, the largest user of water provided by the San Luis Unit, to include provisions which, if implemented, could, in GAO's opinion, prevent the Unit from replenishing the groundwater and stabilizing the level of the groundwater.
>
> "The contract was amended to prevent ineligible landowners (landowners who own more than 160 acres of irrigable land) from indirectly benefiting from eligible landowners' use of the irrigation water provided by the San Luis Unit. A large percentage of the land in the San Luis service area is held by ineligible landowners. An ineligible landowner could benefit from the water provided by the

Unit through a reduction of his cost of pumping groundwater due to a rise in the water table. This rise results from two processes: (1) nonuse of groundwater by eligible landowners and (2) percolation into the groundwater of irrigation water applied to the lands of eligible landowners.

"The 1965 contract amendment provided that Westlands, when directed by the Bureau, pump the groundwater in the San Luis area that results from the percolation of irrigation project water applied to lands of eligible landowners. If pumping of groundwater is ordered by the Bureau, a stated objective of the Department's feasibility report--the stabilization of the groundwater level--may not, in GAO's opinion, be accomplished.

"Also, if the Bureau requires Westlands to pump water under the terms of the agreement, it could result in the Bureau's paying Westlands about $2 million for pumping the groundwater, and in the san Luis Unit's not realizing revenues of about $4 million because part of Westlands water requirements would be met by the pumped groundwater instead of by the purchase of water from the Unit.

"The estimated $2-million payment to Westlands is based on a provision in the April 1965 agreement which requires the Federal Government to reimburse Westlands $4 for every acre-foot of groundwater it pumps; a fact the Department apparently failed to disclose to the Congress."

There were other administrative problems identified by the GAO, however, they are unrelated to the supplementary agreement.

It should also be noted that during the 1966 hearings, disclosure of the pumping cost and loss of federal revenues was not made in spite of the reference to the '64 amendment in the Department's letter to Senator Jackson.

Mr. Brody's presence in Washington is very evident upon scanning the historical files of the Bureau. In fact, he was most distressed with the amendatory requirements in the contract.

Two facts emerged: First, after the amendment was submitted to Congress, Brody managed to get the Interior Department to agree to pay for the cost of pumping. Secondly, it now appears questionable that pumping was ever initiated to meet the criteria outlined in the amendment.

Both facts have remained basically a secret until GAO uncovered them, and in spite of the GAO revelations, it is still uncertain as to what did or did not happen.

Also, the Fresno Bee recently reported that in the 60's the district permitted delivery of water to ineligible lands. The situation was so bad that one Bureau employee resigned in disgust saying, in part, in a letter to Congressman Sisk, "...because of the lack of any real desire on the part of the Bureau administrators to enforce the provisions of the law."

According to the Bee, the disgruntled employee, Clive Ririe, wrote again to Sisk, this time in 1969 complaining that the Bureau and the District tried not to enforce the law.

SALES IN WESTLANDS MADE PURSUANT TO THE RECORDABLE CONTRACT

According to numerous conversations I have had with representatives of the Bureau of Reclamation, their requirements for disclosure in recordable contract sales are so demanding that prospective parties to the sales have complained of evasion of privacy.

Furthermore, they inform me that the Bureau has rigid standards and follows the law to the letter. And, one Bureau employee even characterized their role in administering the excess land laws by stating, "we look beyond the paper," indicating the thoroughness in which they scrutinized the recordable contract sales.

Perhaps so. But even a cursory examination of the sales in Westlands administered by the Bureau of Reclamation- - - and bear in mind that the Bureau is not a passive participant in these sales- - -reveals that family farming, family farming as depicted by this act is not being achieved.

Many of the transactions examined reveal that massive amounts of paper are shuffled, but little, if anything, ever happens where it counts--on the land.

One transaction, involved a series of parcels, all contiguous, which Russell Giffin sold the same day to members of the Pickett family in limited partnerships. There were several things suspicious about the transaction, but others will discuss that in more detail. I question the approval of the sale because of the limited partnerships and the overt inconsistency with California law. California law, specifically the California Corporations Code sections 15501 etc. seq., prohibits limited partners from actively participating in the business. However, the Bureau of Reclamation approves these same "inactive partners" as family farmers. To Farmers Union, this represents a most serious contradiction.

A year ago California Rural Legal Assistance raised this question formally with the Bureau, but when responding, they conveniently dodged the question.

Another transaction, this involving Harris Farms, Inc. follows a circular path back to the original owner after thirteen transactions. Transaction number nine terminated the recordable contract and shortly thereafter, the original owner reacquired the land.

In two separate transactions involving some 17 different sales of 160 acre parcels--one person turns up as a limited partner in one and a general partner in another. That person is Robert Pryor. How and why is that permitted?

In another transaction, Jack Woolf, who happens to be Secretary-Treasurer of Giffen, Inc., becomes trustee for the children of Sumner Peck (Giffen's son-in-law) in a transaction whereby Sumner Peck, Inc. sells to Sumner Peck and members of the Peck family. Incidentally, the sale is financed by Sumner Peck Ranch Inc.

However, Jack Woolf is a direct buyer in another sale the Bureau of Reclamation termed in correspondence as "the Jack Woolf Buyer Group." Is not Woolf in a position of conflict?

Similarly, Lee Moser is a trustee for the Rogers children in another sale--the Rogers Buyer group (in the vernacular of the Bureau,) and yet Moser and his wife are owners of 320 acres in the same transaction. Is not Moser in a position of conflict?

Moreover, with specific regard to the sales by Giffen, questions must be raised whether or not Giffen actually relinquishes control of the land. That will be discussed in more detail later in this testimony.

Also, a real estate solicitation from Pearson Realty in May 1973 states after discussing the property in general,

> "Since it will probably always have to be sprinkler irrigated, it is primarily suitable for vineyard and tree crops and other crops adapted to sprinkler irrigation, and three names will be required to purchase it."

Not three farmers, not even three persons--merely three names. The local real estate people apparently recognize the spurious requirement of the reclamation law for what is--paper compliance. Senators, we are producing, not a new generation of family farmers, but rather one of paper farmers.

In fact, examination of the sales in Westlands shows that paper farmers and investment seekers are the most prolific crop in the District.

When assessing the sales, it become abundantly clear that Westlands is fast becoming a haven for investor capital. We are reconstituting the corporate farms of yesterday into the custom-managed syndications of today. We are still left with absentee ownership and little else. Moreover, in the process, those for whom the land is intended are effecitvely excluded from the land.

The proposed changes in the excess land laws in the pending contract will greatly facilitate this process, by allowing excess land to be sold to anyone.

Even the Solicitor of the Interior raised questions about the sales in Westlands recently. According to the Regional Solicitor in California in a Memorandum to the Commissioner last December, "...a growing proportion of the trust proposals submitted for departmental review are nothing more than investment promotion schemes."

A report published last year by the Institute of Government and Public Affairs at UCLA entitled, "Some Political and Economic Aspects of Managing California Water Districts"concludes, "Altogether the interpretation and administration of the Reclamation

Law has substantially favored the large landowner, while the initial objectives of the Reclamation Law--to assist the small-scale farmer and foster the family farm--are not being achieved."

When appearing before Senator Stevenson three years ago, Brody proudly announced that a series of sales had previously been made, to establish that indeed, the program, was as he predicted, working. Furthermore, to offset criticism that the land was overpriced in violation of the law, thus original owners retaining some of the speculative benefits, Brody recited a series of dollar amounts representing the price per acre sold. He didn't, however, identify the sales.

This is raised only so the Joint Committees understand that, as a practical matter, land isn't available in Westlands. If you went to Mr. Giffen and asked to buy land he placed under recordable contract, you would find that in order to buy the land, you also had to buy improvements, both fixed and non-fixed improvements.

The effect of this "package" was to effectively price the land off the market as far as would-be farmers are concerned. In fact, we are suspect that such a requirement might be in violation of anti-trust laws and we ask the committee to investigate this.

Most importantly, the real question that should be put to the Bureau of Reclamation and the Westlands Water District is, where is the program to support family farmers? Where is the program that will foster family farming? According to Brody, approximately 100,000 acres have been sold pursuant to the recordable contract, but where are the farm families?

In testimony before Congress, Sisk and others have warned that a substantial amount of land will be available soon and that the market may not be able to absorb it unless something is done. But legislation to accommodate the transition (such as the Reclamation Lands Authority Act) has been snubbed and opposed with nothing offered in its place.

Even this year, during a meeting with Brody, I pledged my willingness to work with him or anyone else in creating, legislatively or administratively, a program to make the land available to the landless and would-be family farmers--to those who desire farming and rural life. Brody agreed, not enthusiastically, but he agreed. Subsequently, I received a letter from him telling me that he was speaking strictly for himself and not the District. A meaningless effort.

Thus, in spite of a constituency of people who desire the land, as a practical matter, the land remains unavailable to them. The sales taking place today are breeding, not family farmers, but rather syndicate investments and other non-farm absentee individuals merely looking for a place to shelter some capital.

JUBIL FARMS - THE FUTURE FAMILY FARMER - THE PROMISE DELIVERED

After initial work in California uncovered the transaction involving the Williams Rogers buyer group and Jubil Farms, I took strong interest in the particular transaction.

On July 12 of last year, the following transactions were simultaneously recorded in the Fresno County Recorders Office:

William and Judith Rogers	315	acres
Lee and Diana Moser	320	"
K. Industries Inc.	160	"
Verlin and Laura Pitts	160	"
Bruno and Ernestine Malancia	165	"
Grady and Dora Witcher	111	"
John and Gloria Barrentine	153	"
Rogers Trust #1	157	"
" " #2	157	"
" " #3	157	"
" " #4	157	"

According to correspondence with the Bureau of Reclamation, the sale is termed, "the Rogers Group Purchase." Note the singular designation by the Bureau of Reclamation. In a letter to George Ballis representing the National Land for People, the Bureau says, "Our analysis of this sale was made on the basis of the seller's request (Giffen) for price approval which did not break down the proposed price parcel by parcel."

In so doing, the Bureau abandoned the 160-acre limitation. Why is the buyer able to successfully dictate the terms and conditions to the agency charged with the responsibility of enforcing the law?

What is the continuing relationship with Russell Giffen and/or Giffen, Inc. or any other Giffen related entity and Juhil Farms? Is Jubil Farms obligated to sell its cotton seed to Kingsburg Cotton Oil Company?

Additionally, a twelfth transaction took place. Giffen, Inc. sold 960 acres of excess lands directly to Jubil Farms.

Uniquely, still another transaction occurred. This one, also recorded the same day, transferred all of the improvements to Jubil Farms. Thus all of the improvements from the sales just listed were sold separately to a third party.

The improvements included buildings, storage facilities, pump sites, pumps, well sites, valves, sprinklers, and other items. Of the $3.5 million "package sale" for land and improvements, $2.3 million went for improvements and $1.2 million for the excess land.

The purchasers, so-called family farmers, immediately leased their newly acquired holdings to Jubil Farms, Inc. The leases were also recorded the same day in the Office of the Fresno County Recorder.

Financing for this transaction was provided by the Nissho-Iwai American Corporation, a Japanese investment conglomerate with offices in Los Angeles and New York. Trust deed papers were similarly recorded the same day.

To the best of my knowledge, still one more document was filed with the Recorders Office that day. After obtaining the leases from the individual buyers these were simultaneously leased to Jubil Farms, and, in turn and simultaneously assigned to the Nissho-Iwai American Corporation. The document is termed, "Assignment of Lease for Security."

Subsequently, I learned from the Bureau of Reclamation that Jubil Farms, Inc. is a corporation, stock in which is owned as follows:

William and Judith Rogers	80%
Nissho-Iwai American Corporation	20%

Originally, it was thought, Rogers having a California address, that Jubil Farms was a California Corporation. An inquiry to the Secretary of State in Sacramento revealed that Jubil Farms, Inc. was a New York Corporation.

Another name popped up in this complex sale. It is one Eva Feldman. Eva Feldman is listed on the incorporation papers filed in New York as one of the incorporators. Who, then, is Eva Feldman?

The address for Jubil Farms is 500 Fifth Avenue, New York, NY (40th Floor), according to papers filed in Sacramento.

In an attempt to learn more about our family farmer, I then, traveled to New York to visit with the new family farmer--the new family farmer brought to us by government policy.

Upon arriving at 500 Fifth Avenue in Manhattan (the corner of 42nd Street and Fifth) and entering the building I first learned that Jubil Farms was not listed on the Directory. However, the papers filed in Sacramento listed the 40th Floor as the old homestead. Tiles and carpet, not soil, was all that was to be found on that floor -- and the offices of a law firm, Kamerman and Kamerman, Kamerman and Shapiro P.C. That firm is, or appears to be the sole occupant of the 40th floor.

I went to the window and a chubby, but pleasant woman, in her 50's or 60's, looked up. When I asked for Eva Feldman, she just smiled. My work was easier than I thought. However, the first mention of Jubil Farms caused her to become instantly speechless. Removing herself from her desk, she retired from the scene. She came back to inquire my name and disappeared again saying that Mr. Kamerman would be with me shortly. Some 10-15 minutes later one of the Mr. Kamermans' appeared. When asked about Jubil Farms, I was queried about my interest. Kamerman then stated that the attorney-client privilege prevented him from discussing the matter. He then referred me to Robert Self of Bakersfield, the local attorney of record. Kamerman was courteously uninformative

Leaving, I thought to myself it was somewhat strange that public subsidies are now being shrouded by the attorney-client privilege.

Somewhat frustrated in learning so little, I then traveled across Manhattan to visit the financing entity in the hopes of learning more of the new family farmer. Arriving at 80 Pine Street, the listed address of the firm, the directory informed me that the 9th floor was my destination.

However, the Ninth floor was an enigma. A sign designated the home of the company and like my experience at 500 Fifth Avenue, this appeared to be the only occupant on the floor. However, people, desks, and signs of work on the Monday noon were not present. Instead the thousands of square feet, and the numerous offices inside the doors of the Nissho-Iwai firm were empty. I later learned from the doorman that they moved across town only the day before.

Not knowing that at the time, I proceeded to look for someone who could tell me something about our family farmer. The doors were open and even some of the lights were on, but no people. Searching for anyone took me down one corridor with small offices to each side and then another.

Looking up at a door I was passing, I was startled to read, Kamerman and Kamerman, Kamerman and Shapiro. The very same firm across town I left only an hour before was again staring at me. The firm, at whose address is Jubil Farms, has a second "home" in New York. The second place of business was inside the doors of the firm providing the financing for Jubil Farms.

The uncanny connection caused me to make one last stop in New York. I ventured back across town to 1201 Avenue of the Americas -- the new home of the Nissho-Iwai American Corporation. Unlike their previous office directory, the new directory proudly lists the many departments and subsidiaries of the firm. The list reads like an ordinary multi-national investment conglomerate; aircraft department, accounting department, chemicals department, communications department, ferrous materials department, and half way down the list is "Kamerman and Kamerman." (A full listing of the departments and subsidiaries is provided in the exhibits along with a photograph taken May 3, 1975, of the directory.)

Still, there are more unanswered questions. For example, who are the buyers of record? The Rogers buyer group is made up of a variety of seemingly unconnected persons and one corporation. First, there is William and Judith Rogers, who live in Wasco, California. Rogers apparently is a farmer. The four trusts are his children. It should be noted that the trustee of the four Rogers' trusts is Lee Moser, who is also one of the purchasers.

Verlin Pitts and his wife purchased a quarter section. When I had occasion to call Jubil Farms recently, a young girl answering the phone informed me that Verlin Pitts was the manager, not the owner. According to her, Mr. Rogers was the owner.

Almost mystifying was the one corporation among the new landowners. K Industries, Inc. also purchased a quarter section, financed by the Nissho-Iwai American Corporation and leased to Jubil Farms. K Industries, Inc. it turns out, is an inactive corporation, originally formed to sell false teeth by mail. The incorporator of this company was Robert Self, the man to whom Mr. Kamerman referred me for information about Jubil Farms, and the same man to whom Mr. Rogers referred me as his lawyer.

I find it somewhat difficult to remain dispassionate once learning that a firm designed to sell false teeth by mail has managed to qualify under the law as a family farmer in the eyes of the Bureau of Reclamation.

Did the buyers put up any money of their own or did they obtain 100% financing?

Are any of the buyers provided consideration for the use of their name?

Do the buyers get the full profits, if any? How will a loss be distributed?

Do any other agreements exist which alter or affect the relationship between the buyers, Jubil Farms or Nissho-Iwai American Corporation?

If the law allows this transaction to stand, then the rules are wrong and they must be changed. The people in the Fresno office of the Bureau of Reclamation piously assure me that they are following the law. If that's true, then Congress should join me in demanding that it be changed.

I have retraced my footsteps for this committee. Farmers Union has actively sought to learn how this expensive investment on behalf of the people was being implemented. We are saddened and grossly disappointed with the results. We have traced a promise in this testimony, a promise of a substantive program designed to promote and foster family farming. To suggest that this transaction measures up to the standards of 1902 is a mockery. To suggest that this transaction measures up to the reaffirmed promise in 1966 is a mockery. That this "farm" exists is an insult to every family farmer in America.

Nonetheless, questions are still unanswered. What is Jubil Farms? Who controls -- really controls -- that farm? What is the relationship between the law firm, Kamerman and Kamerman, Rogers, and the Japanese firm? Are the buyers true and honest buyers, or merely paper farmers designed to gain approval from the Bureau? If Pitts is the manager and not the owner, then what is he? What is K Industries, Inc. and how did it get into this transaction? For what consideration? How does the Bureau approve a sale when the financing entity owns 20% of the leasing entity?

Most importantly, I want the Bureau to explain to Farmers Union, these committees, and all concerned how this transaction meets the intent of the law.

Are the guidelines established by the Bureau of Reclamation in 1962, Solicitor's Memorandum met, particularly criteria number 7, "That each beneficiary or guardian of a beneficiary shall have the right, at his option, to a partition of the interest of the beneficiary in the trust," in this sale.

Jubil Farms owns the improvements. It owns a huge, above ground pipe through which water for the land flows. Can the Rogers children truely partition their land? Is not the land worthless without access to the water? When Giffen owned the land, he owned the pipe and the land. But it's not the same for Rogers Trust 1-4. And is not the trustee, Lee Moser, in a potentially serious position of conflict of interest? Bear in mind that Moser is also an owner of record in his own right.

Jubil Farms -- the future family farmer?

GIFFEN TO GIFFEN TO GIFFEN TO GIFFEN

Through the reclamation program, the public treasury confers substantial--if not enormous benefits. If one happens to own land in such an area, the benefits of holding on were aptly described by a lawyer about one of the original Board members of the Westlands Water District, during a 1958 Senate hearing:

> "Mr. Horton. Let us lay the cards on the table with respect to Jack O'Neill. I will give you my own opinion of Jack O'Neill's willingness to sign the 160-acre limitation. He thinks if he gets water for 10 years on there without having to sell it, he can make enough money out of it so he can afford to sell the land at any old price. That is my own opinion of Jack O'Neill's willingness to back the San Luis project and accept the acreage limitation. You will have to ask him if that is his real reason, but that is my candid opinion for it."

Russell Giffen, a dominant man in Central Valley and Westlands for many years--a position he appears to maintain in spite of the sale of his vast holdings and leases in Westlands. These Giffen holdings and leases, we understand, totaled more than 100,000 acres.

Russell Giffen participated in other government programs, federal and state that have made him the rich man he is today. For instance, a grower of cotton, Giffen participated in the ASCS program and received set-aside payments.

For most farmers and ranchers throughout the nation, participation in the ASCS set-aside program was the means for staying alive in agriculture. During a period of surplus, the government paid this nation's farmers not to produce on some of their lands. Not to do so would have meant lower prices due to overproduction and farmers would have taken a financial beating.

But for some, like Giffen, the program was a key to the Federal Treasury. For the years 1966 through 1972, Giffen and members of his family stood in line to receive a staggering $17+ million--for not growing cotton on the very same lands the government authorized the expenditure of millions so that they would continue to be irrigable.

But the lust for public glitter didn't end there. Giffen also participated in the benefits of the Williamson Act. The Williamson Act, a farmland preserve program, is a State of California passed program that relieves property owners of 12-1/2% of their property tax if they agree to not develop their lands for ten years. We don't have the amount Giffen was relieved of paying, but it is reported to be substantial.

In short, while the government was spending millions to irrigate the land, it was also paying millions to Giffen not to grow and not to develop.

Public assistance to Giffen didn't end with that. Early in 1966, the Solicitor's office dispatched Associate Solicitor Geoffrey Lanning to a Westlands Water District Board of Directors meeting to brief the Board on the special tax rulings being sought by the Department on behalf of the excess landowners.

Lanning, now a Professor of Law wrote to me last week saying,

> "I was responsible for initiating the efforts to get the ruling, and I wrote the request etc. I can state categorically, that my thinking, and the argument I advanced to the Department (as Assistant Solicitor, Reclamation) was that we should seek to obtain this ruling in order to obtain the cooperation of Westlands in carrying out the excess land laws.
>
> "I was assured by the Counsel for Westlands, and by Giffen, as I recall, the dominant voice in the District, that if they got a favorable tax ruling they would go through the various procedures, including sale under recordable contract, necessary to enforce the excess land laws in Westlands, in a meaningful way."

On top of an enormous subsidy--public subsidy--the Department needed to obtain the cooperation of the excess landowners. Senators, I find that most interesting. It also suggests that the Interior Department's ability to enforce its own laws is highly questionable perhaps accounting for its inability to enforce the excess land laws.

It is not clear whether or not such a tax ruling was ever, in fact, obtained. However, Lanning informed me he thought it was. He left the Department prior to its enactment.

This could mean that Giffen, selling out pursuant to reclamation law for more than 30 million, may not have had to pay taxes on the sale.

Another point. Giffen received water on his land for, in some cases, up to eleven years. The repayment contract between the Federal government and the water district will ultimately require the landowners to repay more than $300 million (interest free). Giffen will pay not one penny of that. Since repayment begins only when the project is "substantially complete" (which is undefined), Giffen escapes a responsibility for repayment. The equity of it is appalling.

I have been told by the Bureau and the Water District that Giffen is out, but is he?

Some of the land sold by Giffen was not really sold on the open market to prospective family farmers. Rather, a substantial amount was sold to his former managers, Jim Lowe and Jack Woolf, and various members of his family.

Conditions attached to one package sale indicate that Giffen has been rather slow in relinquishing control of some of the properties he recently "sold".

For example, according to a document furnished by a local realty company, Giffen stipulates that, "Seller agrees to provide initial management of the cotton gins, tomato grading station, packing sheds, labor facility in the Southeast quarter of Section 10, 20/17, and grain storage facilities; said management shall be provided at seller's option for a period not to exceed 10 years. Buyers agree to deliver all cotton grown on the premises for a period of 10 years to the gins and agree to sell to Kingsburg Cotton Oil Company the cottonseed from cotton produced on the purchased lands for a like period."

Note that the management is furnished at the seller's option for up to ten years. And, according to the most current information, Giffen is President of Kingsburg Cotton Oil Company. So, in essence, he can control the land because all the cottonseed must be sold to him.

We ask the Committees to determine whether or not these stipulations are 1) consistent with reclamation laws; 2) consistent with the Sherman Anti-trust Act; and 3) consistent with the Clayton Act.

Lastly, we note that in many transactions, Giffen retains the rights to oil, gas and minerals. Is this consistent with reclamation laws? Assuming, for a moment, that gas or oil is found beneath Jubil Farms or any other farmland sold by Giffen in a reclamation area. Who gets what? Does Giffen have rights to the subsurface that could disrupt the farming operations? If so, doesn't that potentially weaken the reclamation program?

Little can be added to the Russell Giffen story. Giffen, in many ways, was one of the pioneers of the valley. He is now aged and, according to the press, ailing---and very wealthy.

WHAT ARE THE RULES: ONLY RALPH BRODY KNOWS THE RULES

I have asked the Bureau of Reclamation for copies of the rules and regulations relating to land ownership and the excess land laws. The question was directly put to Asst. Commissioner Sullivan only a few weeks ago. He responded by saying that rules are contained in the statutes and a series of Solicitor's Opinions and Rulings, which the Bureau of Reclamation has conveniently bound and has made available. There are no published regulations.

When in Fresno visiting the Bureau recently, I asked them the same question and, not unsurprisingly, received the same reply. However, when I inquired of Ralph Brody, the Manager-Counsel of the Westlands Water District, the same, I received a different answer. He informed me that his office prepared for him a big black binder full of letters, memorandum, opinions and other materials collected over the years, which collectively represents the operating rules pertaining to land ownership and the excess land laws.

He had a memorandum prepared by his staff outlining the salient points in that binder, but when I asked him for a copy of the memorandum, he declined to provide it. These matters were discussed in Washington at the office of T.V. Dillion July 7.

This raises many procedural questions about the manner in which the Bureau of Reclamation, as a federal agency, does business. Information is guarded, and only selectively available.

Why isn't the Bureau of Reclamation required to establish regulations like other agencies, publish those regulations,in the Federal Register, and seek public comment in the Federal Register prior to initiating and implementing those regulations? Certainly the questions that have arisen over the implementation of the excess land laws suggests the need for establishing such a procedure.

To allow a situation to develop whereby one person in the world knows the rules is contrary to the manner in which this nation is supposed to do business.

Why isn't the Bureau of Reclamation required to follow the procedures provided in the Administrative Procedure Act? Why doesn't the Bureau of Reclamation promulgate regulations? For reasons which are not clear, the Bureau has unilaterally decided that it's unnecessary to abide by this process. That must change.

ENVIRONMENTAL IMPACT STATEMENT

The final impact statement prepared by the Bureau of Reclamation is obviously inadequate. In view of the additional water sought by the district in the presently pending contract and the concern for water quality in the delta, a new Environmental Impact Statement ought to be submitted to the Council on Environmental Quality pursuant to the requirements outlined in NEPA.

Also, the Impact Statement is totally deficient in terms of addressing the social impacts of the project. One need only travel to the town of Huron to substantiate this assertion.

At the very least, the Bureau of Reclamation ought to be required to submit a draft supplement to the final Environmental Impact Statement.

THE PROMISE DELIVERED

Commissioner Stamm, in a January 16, 1975 Memorandum said among other things, "Regrettably, in the course of administering the law, there have been cases where multiple ownerships have been approved which although superficially consistent in form with such earlier cases, were not consistent with the policy and purpose of the law."

Even more regrettably, several paragraphs later, the Commissioner states, "The application of the policy set forth in this memorandum is not intended to affect the validity of any multiple-ownership arrangements which have prior to this date received formal departmental approval.

It is interesting to note, having examined some of the Bureau's historical files, that memos were written more than ten years ago stating the need to develop guidelines and "rules" for multiple ownership sales. A decade later, the department is providing "grandfather" clauses in Commissioner's memos excusing mistakes of the recent past and establishing part of requested policy in 1965.

The GAO, asked to investigate several suspected problems with the reclamation program, abdicated that role as demonstrated by two GAO reports, one in 1972 and another last year.

Legislation was recommended by the Interior Department in 1964 and again in '66 for a government purchase of the excess lands.

Throughout the 60's there was continued discussion, but never a meaningful program. And, in the meantime, the reclamation program continues to benefit an elite, few in number, but rich and powerful.

Now the government has decided to rewrite the contract between the government and the water district. The changes contained in the draft contract, presently sitting before Congress in a 90-day review stipulated by the San Luis Act, will finally and totally emasculate the reclamation program. The contract is loaded with favors and special arrangements, typical of the history of the Westlands Water District. The excess land laws are changed to make it easier for the seller to deal with his taxes, and for investor and syndicate agriculture to flourish. The change, if enacted, will effectively exclude family farming.

The contract should be suspended until a full and thorough investigation by the Congress of the sales already approved by the Bureau is completed, a report publicly released, and recommendations implemented to redirect the Westlands program so that the intended benefits go to bona fide family farmers.

Farmers Union further demands that until procedures are established, published in the Federal Register, and implemented, all sales of excess land should be halted immediately.

Congress should, if the investigation determines any fraud or other law violations, report those violations to the Justice Department with a recommendation to indict and prosecute.

Congress should, in examining the sales, refer any possible antitrust violations to the Antitrust Division of the Justice Department, and the Federal Trade Commission.

Hearings should be held in California to allow the people involved--those representing Westlands and those who desire to live in Westlands--an opportunity to be heard. All environmental and economic issues should be fully discussed and considered at that time.

Congress should demand that the Bureau of Reclamation redirect its reclamation program--to serve those people who desire to farm. Surely if the Department can fly a Solicitor to California to advise the excess land owners on escaping the tax consequences in selling excess lands, then they can provide meaningful advice and expertise to the would-be family farmer.

The proposed contract should be changed:

(1) to remove the special features in the excess land sections;

(2) to demand that repayment of the federal investment be initiated;

(3) to include an inflation escalator to be attached to the water service rate--a requirement in other Bureau contracts, but not this one.

Other recommended changes and questions we have about the contract will be submitted in a separate letter to the Committee.

Senator, the promise delivered is a shattered dream. Instead of the greatest good to the greatest number of people, Westlands and the Bureau have teamed up to provide the greatest good to the fewest people.

We have paper farmers on the compliance sheets, but we don't have people on the land.

STATEMENT OF DAVID M. WEIMAN, LEGISLATIVE ASSISTANT, NATIONAL FARMERS UNION, WASHINGTON, D.C.

Mr. WEIMAN. Thank you, Senator.

I am David Weiman. I am with National Farmers Union here in Washington.

The National Farmers Union is most concerned with family farming. We are concerned with some of the acts over the years, and the laws over the years which have helped foster family farming in America.

One of those acts was the Reclamation Act of 1902.

The early part of my testimony attempts to summarize some of the reasons why the Reclamation Act incorporated the antimonopoly and antispeculation features. The abuses of earlier public land laws—the Timber and Stone Act, the Desert Land Act, the Swamp Land Act, and others promoted Congress and President Roosevelt to incorporate section 5 in the Reclamation Act, which prohibits the delivery of Federal water to more than 160 acres and requires that the recipient live on the land or in the neighborhood thereof.

The history of the 1902 act and over the years, the principle as you, Senator Haskell mentioned, is to build homes, is to help populate the West. It is not just to irrigate the land. It is not just to grow crops. And, over the years that principle has been reaffirmed many, many times.

As recently as 1958 the Supreme Court reaffirmed the principle, and in so doing, declared that the Reclamation Act and specifically the acreage limitation section was to provide for the greatest good for the greatest number of people.

In 1972, in a Federal district court in San Diego, the residency clause of the act, seldom enforced by the Bureau, was reaffirmed. That is presently on appeal in the ninth district court along with a case regarding the acreage limitation issue. The cases have been consolidated, and they are presently pending and awaiting final order by the appellate court sitting in San Francisco.

The promise over the years was reaffirmed when the San Luis Act, the act that brought us Westlands, was debated and eventually passed and implemented.

In the Central Valley there have been attempts over the years to exempt the entire project from the acreage limitation, the residency provisions, and the antispeculation provisions of reclamation law. But Congress, in its infinite wisdom, did not allow that.

In 1944 there was an attempt to exempt the entire Central Valley project from the acreage limitation laws, and it was partially Wisconsin Senator La Follette, among others, who beat back that attempt. Congress remained firm on the principle.

In 1947, 1,300 pages of testimony on the bill S. 912 attempted to do the same thing. California Senator Sheridan Downey attempted to exempt the project, and it, too, failed.

In 1959, excuse me, 1958, when the San Luis Act was debated during authorizing hearings, bill S. 1887—Congressman Sisk, the Congressman from Fresno said, and I quote:

> If we have this water, we will keep 500,000 acres under intensive cultivation, we will gain fine people, homes, prosperous communities and small businesses growing out of a stable agricultural community.

The following year the act was again debated. Congressman Sisk said:

> We are not merely trying to irrigate land or create crops or reclaim desert, except as these enterprises may be used as tools to promote the welfare of the people of the United States, to provide them with homes and businesses, to improve their opportunity to make a living, to raise their families and enjoy the freedoms and opportunities of America.

He continues with several other statements. He quotes studies predicting that in the future, when San Luis is built, there will be 27,000 farm residents. He goes on to say:

> Recent surveys show that the land proposed to be irrigated is now in 1,050 ownerships. These studies show that with San Luis built, there will be 6,100 farms, nearly a sixfold increase.

Congressman Sisk beautifully sums up the purpose and the promise, the promise that was reaffirmed over the years, and the pledge that Congress was given. That is the reason Congress justified the expenditures of these vast sums of money. It is predicted that when the Central Valley Project is ultimately completed, the United States will have invested well over $3 billion and possibly $4 billion.

The CHAIRMAN. Where do you get your figures of $4 billion and $3 billion?

Mr. WEIMAN. That is the entire Central Valley project. Some of those were from Federal documents, and I can supply you some sources for that, Senator. At the table I do not have a source.

The CHAIRMAN. Would you please supply that for the record? [1]

Mr. WEIMAN. Early in the 1960's, and specifically in 1964, opposition grew against the contract for Westlands. The contract I am referring to is the water service contract and distribution and drainage repayment contract between the United States and the Westlands Water District.

The reason for the opposition was that there was great fear, justified fear, that the benefits of the program would go to an elite, instead of the people for whom the act is intended.

In 1964, Senator, you chaired a hearing on Westlands and on the Westlands contract in the Senate Interior Committee. There were several issues at that hearing, the basic being—the most fundamental being—that there would be circumvention of the excess land laws.

As a result of that hearing, the contract was amended. One of the issues is that there was great concern that as water is delivered, there would be percolation through the ground and through the water table. The flow in the valley is toward the west side, or more or less underneath Westlands. And at the time, approximately 70 percent of the district was excess owned. That means that many owners had more than 160 acres. They would benefit by not signing contracts and merely pumping up the ground water.

Westlands was not a new project to irrigate new land. It was a rescue project. Some of the land was in production; crops were being produced on it.

In 1964, during the hearings, there is a fairly lengthy colloquy between you and Assistant Secretary Holum, which I included in my statement, and Assistant Secretary Holum reaffirms the principle that this project is for farm families.

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

The CHAIRMAN. I am looking at a sentence on page 15, and I do not understand what you are saying. In the middle of the page, fifth paragraph, you have a sentence which reads, "The most notable change was the requirement that the ground water not be recharged, pumping required to prevent 'unavoidable' delivery of water to excess land."

That is not a clear sentence to me.

What does the sentence mean? You say there is a requirement that it not be recharged, "pumping required to prevent unavoidable delivery of water to excess land." It is just not a complete thought. What did you leave out, or what are you saying?

Mr. WEIMAN. I am sorry, Senator, you are correct.

The point I was attempting to make is that as a result of the hearing, the Interior Department amended the contract. The fear that underground water would be recharged was abated by this amendment.

The CHAIRMAN I do not recall; I recall the event, but I do not recall the language.

Are you saying that a memorandum was signed that would not permit the aquifer to be recharged at all?

Mr. WEIMAN. Not at all, Senator.

Picking up your words, the amendment was signed to prevent the excess landowners from unjust enrichment by pumping.

The CHAIRMAN. I understand that. But, you are saying that the amendment required ground water not be recharged.

Mr. WEIMAN. Effectively, until 76 percent of the district lands were eligible to receive project water.

The CHAIRMAN. Well, it becomes clear that they did not agree that there would be no recharging, but that there would be no recharging of aquifers until 76 percent of the landowners were under recordable contracts?

Mr. WEIMAN. Well, eligible, which would be nonexcess lands as well as lands under recordable contracts.

Two years later you again held a hearing, in 1966. Assistant Secretary Holum says to you, or to the committee in a letter:

> As a final point, I should like to emphasize the continuing and keen interest of the Department in furthering the interest of the family farm concept in our irrigated agricultural programs. The Reclamation program has traditionally sought to foster such family farm developments. We believe it has been successful in this respect. Of major significance is the uncontestable fact that the reclamation program, among all of the Federally assisted water resource development programs, has the most specific requirements and controls designed for the exclusive benefit of the family farmer.

Therefore, the general promise made over the years, and the specific promise made with regard to Westlands are synonymous. It is now 9 years later. Much of Westlands has been built. A substantial amount of the land has been placed under recordable contract. Vast amounts of it have been sold, pursuant to the recordable contract.

Now, let us examine, the promise delivered—the family farmer today as brought to you by this contract and this program. Frankly, Senator, in a sense, there is not much to tell because there is nobody out there. The land has been sold, but it has not been sold to family farmers. We are producing paper farmers, a new version. The paper farmers are syndicates. In some cases they are dummy buyers. They are all sorts of things.

Contiguous parcels of land have been put together, approved by the Bureau of Reclamation, and sold. By the way, Senator, as an aside, the amendment to the 1964 contract was never really implemented, and the GAO heavily criticized the Bureau of Reclamation for failing to disclose that to the Congress in a lengthy report in 1970. That is attached to my statement.

A number of sales in Westlands—well, one specific transaction, for instance, sold by Russell Giffen, a large landowner on the west side—a series of contiguous parcels of land, all sold the same day in a form of limited partnerships to six members of the Pickett family. Cantua Ag Partners was No. 1 of the Picketts; Cantua Ag No. 2 was another Pickett, and so on. There were six of these. I take strong exception to the sale for a couple of reasons. California corporate law, specifically the California Corporations Code, sections 15501, prohibit limited partners from actively participating in the business. But the Bureau of Reclamation approves these inactive partners as family farmers.

Senator HASKELL. Now, let me ask you a question.

Do you have copies of these documents for the hearing?

Mr. WEIMAN. Yes; we do, Senator.

Senator HASKELL. OK, let us take that specific transaction. Here is a big landowner, and you say that he sold to six separate entities with limited partnerships. Is that correct?

Mr. WEIMAN. That is correct.

Senator HASKELL. And you have copies of the deeds of transfer?

Mr. WEIMAN. Yes, Senator, we have.

Senator HASKELL. Will you submit those for the record?

Mr. WEIMAN. All of the papers filed with that statement—or, all of the papers filed in the Fresno County Recorders Office, which established that that transaction took place, are available to this committee and will be attached to this statement.

Senator HASKELL. Do you happen to have copies of the limited partnership agreements?

Mr. WEIMAN. Yes, Senator. They are available, and will be attached.

Senator HASKELL. I think they should be submitted for the record.[1]

Mr. WEIMAN. All of the sales that will be talked about this morning, Senator, we have the papers filed in the Fresno County Recorders Office. We have obtained them; we have Xeroxed them; and they are attached in the appendix and available to the committee.

Senator HASKELL. All I want to be sure of is that we have the basic deeds of transfer and the limited partnership agreements for inclusion in the hearing records; and if you have financing documents, that we could have copies of, they should also be included in the hearing record.

Mr. WEIMAN. In many instances we do, and in several instances we have even more than that involving several of the sales, and we will get into that.

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

My point is not to discuss a variety of things that happened with that transaction, but to point out that California law and reclamation policy as implimented are at odds with each other; and yet, the Bureau of Reclamation seems to ignore this.

Senator HASKELL. Excuse me, I recognize, and I am sure that Senator Nelson recognizes, that limited partnerships cannot have any management. In fact, we all know that. But, did the Bureau of Reclamation approve these? Is that what you are telling me?

Mr. WEIMAN. This is an approved sale.

Senator HASKELL. Thank you.

Mr. WEIMAN. One other point in this regard is that the very same question I am raising, was addressed to the Bureau of Reclamation in a letter by California Rural Legal Assistance, in July of last year, asking how can these transactions be consistent—with both California law and Reclamation law.

The Bureau of Reclamation merely refused to respond to that comment in the letter. They simply ignored it.

So, many of the charges and many of the things that we see as being wrong with the program—you know, it is not as if we have not talked to the Bureau about them. They know our objections. They have ignored our objections.

Other transactions, and I will briefly refer to a few, involve—well, in that same transaction you will find that the general partner is Robert Pryor. In another transaction, Robert Pryor is a limited partner. Now, how can that be? I mean, why is he a general partner in one approved sale, and in a separate transaction, he is a limited partner? This happens in a number of different ways.

In another transaction, Jack Woolf——

Senator HASKELL. Excuse me. Let me ask you this.

The basic reclamation law provides for a 160-acre limitation. Is there anything in the law or are there any cases that say that the purchaser has to be an individual, or can it be a corporation? Can it be a partnership? Can it be a syndicate?

Do you happen to know?

Mr. WEIMAN. There are a series of questions there. Yes, it can be a corporation. But part of the point of these sales is that there are some technical things of which the Bureau approves. We are pointing out that some of the technical approvals by the Bureau and Reclamation policy are at odds with each other. Some of their established rules, and I will get into that in a moment, because there is an inherent conflict there too—over the years have allowed these things to happen. As a result, there has been an erosion of policy bringing forth something else.

Jack Woolf happens to be the treasurer of Giffen, Inc. Mr. Giffen is the man who sold substantial amounts—in fact, he sold virtually all of his land which I believe to be approximately 40,000 acres, and leaseholds perhaps of another 60,000 acres. Jack Woolf becomes the trustee for the children of a man named Sumner Peck—this is Mr. Giffen's son-in-law—in a transaction where Sumner Peck, Inc. sells in a recordable contract sale to Sumner Peck and members of the Peck family—it is financed by Sumner Peck Ranch, Inc. and Jack Woolf is the trustee for the children. It is Sumner Peck to Sumner Peck and wife and children. Now, Jack Woolf is a buyer in his own right in another transaction.

Similarly, Lee Moser is a trustee for the Rogers children in the "Roger group purchase," in the vernacular of the Bureau of Reclamation. Moser, in the same transaction, he and his wife had purchased 320 acres. So, as a trustee to four sales or four transactions in one sale—four children—he also has in his own right, his own interest in the sale in a package of about 3,000 acres.

I pose the question—is this not a serious conflict? When is Mr. Moser, for example, acting in the interest of himself and/or the interest of the children as a trustee?

Senator Haskell. Physically, on the land, are there indications of separate farming operations or not?

Mr. Weiman. It is very difficult to tell out there. There is land for as far as you can see.

Senator Haskell. Have you been on the land yourself?

Mr. Weiman. Yes.

Senator Haskell. Can you tell where one of these tracts stops and another starts?

Mr. Weiman. Not unless you are very adept at reading a landownership map.

Senator Haskell. But physically there is nothing there—no indication?

Have you had any access to the financial information as to who gets what income from what tract? Have you any information as to that?

Mr. Weiman. No, sir. In most cases that would probably be private contractual arrangements. Most of our information comes from the Recorders Office, from recorded documents.

Senator Haskell. You do not know whether or not these people pool income and expenses?

Mr. Weiman. It is quite obvious that has to happen if you have a full section of land, 640 acres, and if it is all farmed.

Senator Haskell. I am interested in documentary proof. Maybe, Mr. Chairman, we might want to get that information from these people, we might have to subpena their tax returns, or something like that.

Go ahead, Mr. Weiman.

Mr. Weiman. Thank you, Senator.

I raised these examples of sales to point out some of the inherent conflicts with the policy as implemented. This was typified by a letter I received in 1973. It was a real estate solicitation letter selling some of the Giffen land. I want to extrapolate merely one phrase out of the sentence describing that you will need sprinkler irrigated equipment and things of this sort. The sale was for 468 acres, as I recall. The letter says, "and three names will be required to purchase it."

Now, that is not three farmers. That is not even three persons—just three names. I think that underscores the—how the real estate industry recognizes the Bureau's requirements for what they are. You need names, you do not need people. But the program is for people!

Now, several independent studies, one published last year out of UCLA, concludes as follows: "Altogether the interpretation and administration of the reclamation law has substantially favored the large land owner while initial objectives of the reclamation law to assist the small-scale farmer and foster the family farm are not being achieved." That comes from a study done at the University of California at Los Angeles, and it is available to the committee.

The **CHAIRMAN**. Where is the study?

Mr. **WEIMAN**. The title of the study is, "Some Political and Economic Aspects of Managing California Water Districts," by James Jamieson, Sidney Sonenblum, Werner Z. Hirsch, Merrill Goodall, and Harold Jaffe, document No. 190 from the Institute of Government and Public Affairs.

Now, Senator, I have dwelt in the abstract about some of these sales. I would like now to talk about one specific transaction which we think typifies the fantasy of the family farm in Westlands.

The sale to which I am referring is the chart on the easel closest to me. Eleven contiguous parcels of land were sold the same day by Russell Giffen to a purchaser—what the Bureau called the "Rogers Group purchase," and that is singular. There was about 2,000 acres of land in that transaction. All of the improvements from those sales or from the land, all of the wells, the welled casing, and everything else, were sold separately, not to those people but to a third party called Jubil Farms. That is located on the bottom part of the chart. The land was all leased to Jubil Farms the same day. Financing was provided by the Nissho-Iwai American Corp. It is a Japanese investment conglomerate.

The same day those transactions took place, another document was filed with the Bureau—excuse me, with the recorders office, showing that all of the leases were assigned by Jubil Farms to the Nissho-Iwai American Corp.

Now, this work was done in Fresno, and I do not really want to go into those aspects of the sale; but I picked up interest in that sale when I learned that Jubil Farms was not a California corporation. In fact, it turns out to have its address at 500 Fifth Avenue, New York, N.Y., in this building, at the corner of 42d Street and Fifth Avenue. The old family homestead looks like this—it is about 75 stories tall.

Well, I was kind of curious. I took these photographs [1] the first week of May in New York. I was curious about how the act was being implemented in downtown Manhattan. So, going up there we knew that Jubil Farms was located on the 40th floor. We knew that because of the papers in Sacramento with the secretary of state. However, on the directory, Jubil Farms is not listed. The only way you know Jubil Farms is there is, again, having gone to Sacramento to the secretary of state's office.

I went up to the 40th floor, and let me interject another name, it's the William Rogers Group. The name Jubil Farms presumably comes from Ju/bil—Judith and Bill Rogers, and they are secretary-treasurer and president and own 80 percent of the stock of Jubil Farms. The incorporator of Jubil was a woman named Eva Feldman, and the real question became, who is Eva Feldman? When I got to the 40th floor, there is no indication that Jubil Farms is there. The only thing on the 40th floor is a law firm called Kamerman & Kamerman, Karmerman &

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

Shapiro, and then the designation "P.C." There is nothing on the 40th floor except that law firm. It is like a doctor's office with a sliding glass window, as depicted in this photograph. I went to the window and I asked for Eva Feldman. This little old lady looked up and smiled. I found her—there she was, "a family farmer." Here is Eva, she in her late 50's, early 60's, kind of a nice, chubby little old lady. I asked about Jubil Farms and her smile disappeared. She disappeared. She got up and walked away. She did not want to talk about Jubil Farms, and I was interested in visiting the family farm of the future as brought to you by Government policy. There was all tile and carpet, and wasn't much soil on the 40th floor, either.

Well, shortly, about 10 minutes later, one of the Mr. Kamerman's came out with a very straight look on his face. I identified myself. He asked who I was and why I was interested, and I said I am looking for the family farm of the future or present. He was not very happy. So, I said I am here to learn about Jubil Farms. He informed me that he could not discuss it because of the client-attorney privilege. He then referred me to a man named Robert Self, and I will identify Robert Self in a moment.

I though it was interesting that an enormous public subsidy is now being shrounded behind the client-attorney privilege. But, nonetheless, I left. Then, since the address of the financing firm, the Japanese investment conglomerate, was also in New York, I then went downtown to New York to 80 Pine Street, which is on the other side of Wall Street. I look on the directory, found the firm—it is on the ninth floor. So, I went up to the ninth floor, and coming off the elevator, like the other building, it was the only thing on this floor. The only firm is the Nissho-Iwai firm. Here is a photograph coming off the elevator. But, there was nobody there. I mean there were no desks, there were no people, there was no nothing. It was vacant—thousands and thousands of square feet. They occupied the whole floor but nobody was there.

I was looking for the family farm, and so I started walking around. The doors were open, the lights were on, but they had just moved that weekend which accounted for the chaos that existed there.

Walking down the corridor in a maze of offices and little cubicles to either side, I was startled when I looked up and saw what is on this photograph, and it says Kamerman & Kamerman, Kamerman & Shapiro; the very same law firm I just left at 42d Street and Fifth Avenue turns up inside the Japanese firm. This photograph was taken inside of this office.

Now, there was no one to talk to so I left, asked the doorman what happened to the firm. He informed me that they moved downtown.

So, I then got the new address and I went downtown looking for it. By the way, I phoned and asked for Mr. Kamerman, just to see if I was correct, and they said, oh, yes, he is here, which I thought was very strange.

When I got downtown—and I believe the new address was 1201 Avenue of the Americas, Sixth Avenue, New York—again, in a fairly large skyscraper; on the directory it's listed not only the Nissho firm but also a series of its subsidiaries, and I will briefly just read down the list—Aircraft Department, Accounting Department, Chemicals Department, Communications Department, Corporated Planning, Data Processing; Electronics; Ferrous Materials Department; Ferrous

Metal Products Department, Finance Department, Food Stuffs Department, Fuel Department, Fuji Photo Film, U.S.A., Inc., General Affairs Department, General Commodities Department, General Machinery Department; Kamerman & Kamerman.

Now, I am not going to draw a conclusion at this point, Senator. I really do not know what to make of it. The only thing I can say is that I think this transaction, emasculates reclamation policy. I phoned Jubil Farms—and they do have a phone number, believe it or not—in California, and I asked for Verlin Pitts, one of the buyers in the Rogers group. The reason I asked for Verlin Pitts is that he is the only one of those persons who actually has a P.O. box number inside of Westlands. He does not, by the way, live there. A young girl answered the phone, and I said, can I speak to Mr. Pitts. I said—by the way, he was not there—and I said, is he the owner of Jubil Farms. She said oh, no, Mr. Rogers is the owner of Jubil Farms. Mr. Pitts is just the manager. The question then becomes were any of these parties really given consideration for the use of their name as opposed to actively acquiring title in good faith? I do not know the answer to that, Senator.

We hope that, as a result of the committee's work, we will utimately get an answer. I think that this sale depicts the kinds of things that we have seen in Westlands. The way the Bureau has enforced the law, it is a mockery.

Now, on that subject of enforcing the law, and I made reference earlier to the rules, on page 29 of my testimony, it starts out, "What are the rules: Only Ralph Brody knows the rules." Unfortunately that is true.

Senator HASKELL. Who is Ralph Brody?

Mr. WEIMAN. Ralph Brody is the manager and general counsel of the Westlands Water District.

Senator HASKELL. He is the fellow that I read about in the paper, who gets $84,000 a year?

Mr. WEIMAN. I think it is a little more than that— but you will have to ask him.

I went to Assistant Commissioner Ed Sullivan and said, what are the rules? What are the operating rules through which and by which sales are made? He said, the statutes which are found in the reclamation laws annotated and the Solicitor's Opinions. Over the years there have been a series of Solicitor's Opinions relating to the excess land laws. I read them. I do not fully understand all of them, but there are a number of opinions, probably 15 of them, which, over the years—some of them date back to the early 1960's, a couple of cases earlier—which set out the rules. But the Bureau has not promulgated any regulations. There is never anything published related to this in the Federal Register.

When I went to Fresno, I said to the local Bureau staff, what are the rules. They said the same thing—the statutes and the Solicitor's Opinions.

Well, a few weeks ago here in Washington I posed the same question to Ralph Brody, and he said, "Oh, I have this big, black binder in my office full of letters, memoranda, opinions, and a variety of miscellaneous items." The fact is that only Ralph Brody has a big, black binder full of the rules. The rest of the world cannot find out what the rules are.

So, while a number of transactions and a number of things are being brought to the attention of this committee, the public at large, and interested parties, and certainly any potential would-be farmers have no access to that information. It is like a club atmosphere—if you are a member of the club, you have access. By way of reference to the same type of thing, the operating agreement through which and by which the Westlands Water District operates—there is a contract between the United States and the water districts. That contract is presently being rewritten, amended, consolidated. We take very strong exception to that contract and urge that this Congress reject that contract for a number of reasons.

I recently ran across—someone gave me when I was out in California a series of memos—one was from 1970—in which I believe it was the Solicitor's office makes note that they take exception to something that Ralph Brody wanted to change in the present contract relating to the excess land laws. But they point out in that memo that he was submitting a brief on the subject.

I talked to Mr. Brody directly and in person, maybe five or six times about that specific change. If such a document exists, he has never volunteered it. It is sort of the position of—I do not know, but I am supposed to specifically ask for it to get it—and that is contrary to the spirit and the manner in which this Government is supposed to do business.

In a sense, Senator, the promise delivered is as follows. Commissioner Stamm early this year, January 16, wrote a memo, and I am going to quote here. "Regrettably, in the course of administering the law, there have been cases where multiple ownerships have been approved which although superficially consistent in form with such earlier cases, were not consistent with the policy and purposes of the law."

But, even more regrettably, he goes on to say, several paragraphs later, that "the application of the policy set forth in this memorandum is not intended to affect the validity of any multiple-ownership arrangements which have prior to this date received formal departmental approval."

In other words, they are saying, we made some mistakes, and now we are going to grandfather them in. We will pretend they did not happen; and from this day forward, do not do it again.

Well, what kind of mistakes? How extensive? What mistakes? You know, this is 1975. In 1965, 10 years ago, I found a memo when going through some of the historical files up at the Bureau, which said effectively we need to develop rules for multiple-ownership sales. Well, here, 10 years later, we are making excuses for the fact that there may have been some screwups. The net effect is there are no people out there. The studies that Congressman Sisk referred to said there will be an increase from 1,000 farm ownerships to 6,000.

I called Francis Lawler at the Westlands Water District earlier this week, and I said how many farms are out there? How many ownerships. He said, "214," which is a fivefold decrease.

Now, those are contracting entities for water with the water districts. The population was estimated to grow to 27,000. The Westlands Water District informed me that it is approximately 6,000, and I think that estimate is very generous. It is probably less than that.

The point is, the promise given and embodied in the law, in the spirit of the law, the intent of the law, and the promise delivered are two different things. Somewhere along the line we have had a paper shuffle. That paper shuffle is excluding people from gaining access to the land. There are a number of things and a number of transactions involving possible antitrust violations. For example, Giffen requires that if you are growing cotton on the land, at his option he will manage the land that he just sold for up to 10 years—*at his option*, not the buyer's option—and that all of the cotton grown on said premises will be sold to the Kingsberg Cotton Oil Co., in which Mr. Giffen happens to have an interest.

I made some other references to Mr. Giffen and the largesse that the Federal and State governments have conferred upon this man. There are some rough calculations made last week. Between 1966 and 1972, Mr. Giffen and members of his family received in excess of $17 million not to grow cotton. Now, that was within the confines of the law, and there were problems with the ASCS payments, but I do not believe that they refer to Giffen.

But at the same time, he was being paid by the Williamson Act, and that is a State Farmlands Preservation Act not to develop the same land.

Now, after he sells out, you know, it still goes on.

Now, I raise this because I received a letter this week from Geoffrey Lanning, who is a former Associate Solicitor in the Department of Interior, and he says in the letter to me that he attempted to get a special tax ruling for Westlands so that they did not have to end up paying taxes, the excess landowners, when they got out. In fact, Mr. Lanning was put on an airplane from Washington, D.C., and sent to a Westlands board meeting in 1966. He passionately went through—and we have an actual transcript of that meeting, certified copies of the transcript, and that will be provided for the record—how, with Mr. Sisk and other people, he was working to get this special tax favor. He writes me today, this week, and says, "I was responsible for initiating efforts to get that ruling, and I wrote the request. I can categorically state that my thinking and the argument I advanced to the Department as the Assistant Solicitor, was that we should seek to obtain this ruling in order to obtain the cooperation of Westlands in carrying out the excess land laws."

Senator HASKELL. I do not understand what this ruling was all about. What type of ruling was he asking for?

Mr. WEIMAN. It would allow them basically to reinvest the money without paying capital gains taxes.

Senator HASKELL. Who are they?

Mr. WEIMAN. They? The excess-land owners, who sold pursuant to the recordable contract. But the point in the letter is that we should seek to obtain this ruling in order to obtain the cooperation of Westlands.

I am speechless. I mean, what is there to say after the Solicitor says that?

Then he goes on to say in the letter, "I was assured by the counsel for Westlands and by Giffen, as I recall, who was the dominant voice in the district, that if they got a favorable tax ruling, they would go through the various procedures, including sale under recordable contracts necessary to enforce the excess land laws in Westlands in a meaningful way." There is an implied threat there that unless they get something else, they will not comply with the law.

This was not a confiscatory program. It is not like you are condemning for a highway that you have decided to put someplace. They sought the Bureau of Reclamation to come to them. It was a rescue project.

The CHAIRMAN. It would not mean necessarily that they would not comply with the law. Maybe they just decided not to put themselves in a position to use the reclamation law. In other words, they can stay out of the project if they want to.

Mr. WEIMAN. I also talked to Mr. Lanning at great lengths, Senator, and that was not the message.

The CHAIRMAN. Well, all I am saying is that they are not required to be participants. If they do not want to use the water, they do not have to be participants.

Mr. WEIMAN. That is correct.

I would like to wrap up my testimony in a moment here, and I would like to point out one thing. In a paper that Mr. Lanning gave very recently—I want to quote merely one sentence—it was a paper on land use delivered on the west coast, and I will submit the paper for the record. "The Bureau of Reclamation has deliberately violated or avoided the 160-acre limitation, doing so by the failure to administer the laws at all or when pressed by having its captive lawyers write crude loophole provisions that let the many big landowners ignore this public safeguard."

The CHAIRMAN. This is a paper by whom?

Mr. WEIMAN. Geoffrey Lanning, former Associate Solicitor of the Department of the Interior during the 1960's.

The CHAIRMAN. Is this a paper, you say, a statement, or what is it?

Mr. WEIMAN. This is a major address he gave, and I do not know where the address was given. The paper is entitled "Land Use Planning—The Federal Income Tax and Justice—a Challenge to Social Problem Solving."

The CHAIRMAN. This was a speech, you say?

Mr. WEIMAN. It was an address he gave. I do not know where, but it was very recent.

The CHAIRMAN. When?

Mr. WEIMAN. Within the last several months.

The CHAIRMAN. You do not have the time or place?

Mr. WEIMAN. I do not. That can be supplied for the record.

The CHAIRMAN. We have four other witnesses, so we will have to take your statement for the record. I assume that you have outlined the specifics of the case that you discussed in your prepared text?

Mr. WEIMAN. I did.

Senator, let me just conclude by saying that we have paper farmers on the compliance sheets, but we do not have people on the land, and that is what the program is all about.

Senator, also, the Farmers Union is preparing a specific critique which we expect to be fairly lengthy, of the contract, which we ask to be included in the record, and it will be provided before next week.

Senator HASKELL. This is a contract between whom and whom?

Mr. WEIMAN. The contract between the water district and Westlands—excuse me, between Westlands Water District and the Government; it has been rewritten. The excess land laws are gutted in the contract as a result of the change. The excess land definition is changed. We have found so many inconsistencies between the contract and unexplained things that we will put this out in a separate document which outlines our specific line by line objections, questions that are unanswered; and some possible conflicts that we have found in the contract.

The CHAIRMAN. Thank you very much, Mr. Weiman.

Our next witness is Mr. George Ballis, National Land for People, from Fresno, Calif.

Mr. WEIMAN. Senator, do you want me to remain at the table?

The CHAIRMAN. If you desire.

We are going to have to shorten the time because we have 1 hour left until noon, and we have four more witnesses. I am going to ask the witnesses who have prepared texts to submit them for the record. It would be appreciated if the witnesses would summarize their statements and avoid, if possible, repeating testimony that has already been presented.

Now, will you gentlemen please identify yourselves for the reporter so that the record will be correct?

STATEMENT OF GEORGE BALLIS, EXECUTIVE DIRECTOR, NATIONAL LAND FOR PEOPLE, FRESNO, CALIF.; ACCOMPANIED BY MARK LASHER AND JIM EKLUND

Mr. BALLIS. My name is George Ballis, and I am the executive director of National Land for People, which is a Fresno-based organization doing research, public education and litigation around the general idea that democratic land control is a prerequisite for a democratic society.

We are particularly, at the moment, interested in our home area, of course, which is Fresno.

Appearing with me are Mark Lasher and Jim Eklund, who have spent many months doing research for the charts that you see on the wall and the map over there indicating the size of the holdings and investments.

They are squint-eyed from the many hours that they have spent in the offices of the Bureau of Reclamation and the office of the Recorder and other offices reading public records and verifying rumors and unverifying some of the other rumors—I have a written statement which I would like to submit for the record.

The CHAIRMAN. It will be printed in full in the record.

[The prepared statement of Mr. Ballis follows:]

STATEMENT OF GEORGE BALLIS, EXECUTIVE DIRECTOR, NATIONAL LAND FOR PEOPLE, FRESNO, CALIF.

My name is George Ballis. I am the executive director of National Land for People, an organization of small farmers, would-be small farmers and consumers with its headquarters in Fresno, California. We do research, public education and litigation around the proposition that democratic land control is a prerequisite to a democratic society.

I appreciate being invited here today by this joint panel to share with you our findings on enforcement of the federal excess land law and related issues in the Westlands Water District of California, especially as our findings relate to the pending water contract between the Westlands and the federal government.

Appearing with me today are Marc Lasher and Jim Eklund who do most of our detailed research on the current excess land sales in Westlands. Their squint-eyed appearance results from the many hours they spend carefully reading official documents in the offices of the Fresno County Recorder, the Bureau of Reclamation and the Westlands Water District.

We will present very simple evidence which indicates to us that the promise of federal reclamation law is not being kept and that the expectations from the hearings of 1964 and 1966 are not being realized. In many respects we today are at the same place we were 11 years ago—with merely a new set of facts—fighting the same old battle against the same old alliance of large landowners and bureaucrats.

The contract before you even contains in its bald form a curious bit of logic I thought we had successfully demolished 11 years ago; namely, the unavoidable clause which allows delivery of federally-subsidized water to excess land if the delivery is accomplished through a pump rather than a canal. So it is the same old battle—except for two new and crucial factors. First, Americans today are more conscious of the land and the quality of their food; and second, there is an active constituency of people who want land.

Nine and eleven years ago, we who supported the excess land law came to Washington a small, loosely-organized band of self-styled right thinkers who wanted the law and its principles upheld. Today we come as a movement. We want land. The law says we should have it. But we are excluded by the rich and the bureaucrats. Why? National Land for People represents the desires and demands of this growing number of people who want land and their natural allies, the consumers, who want a more rational food supply.

Our office receives many letters from people wanting to know when the Westlands is going to be sold into small parcels. They want to buy. Some of their letters are included in our appendix beginning on page 182.[1] When, Senators, will these sales take place?

We also represent hundreds of farmworkers, some of whom already have turned farmers on bits and pieces of marginal rented land, five to twenty acres, but who want to buy their own—good, cheap land with good, cheap water as the reclamation law says they should have in Westlands—but they can't buy, because they are not wanted in Westlands by the large landowners—except as employees—and, therefore, are not allowed in by the Bureau of Reclamation. What some of these farmworkers have written is contained in our appendix beginning on page 187.

Beginning on page 193 in the appendix, following the farmworker letters and applications for legal representation are petitions in both Spanish and English from 181 farmworkers who want land in the Westlands. Most of them have worked on big farms in the district.

Beginning on page 209 in the appendix following the farmworker petitions are petitions from city folks who support the farmworker program.

Our organization is run by a seven-person board of directors, six of whom are active farmers with 12 to 40 years of experience on farms ranging in size from two to 150 acres. Our vice president Jose Reyes, a life-long farmworker, last year farmed for the first time. With one partner, Reyes grossed $20,000 on one and two-thirds acres of cherry tomatoes. They netted $16,000 because the two families did all the work.

Our treasurer, Jessie De La Cruz, also a life-long farmworker with her husband helped organize a six-family co-op in 1973. They grossed $65,000 on six rented acres, enough to buy 40 acres and sink a well. They got a marginal piece, but it was the only thing available. They want to move on to good ground with cheap, reliable water, but Westlands is locked up.

Nevertheless, their success encouraged seven more farmworker groups in 1974 and 35 this year. At first the Bank balked at financing such small operations because the computers said they couldn't make it. These people have proven the computer wrong.

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

Small farmers are more efficient than big farmers. Our board members have up to 40 years of personal living proof. Additional confirmation of this fact comes from the Department of Agriculture and Fortune Magazine. An August 1972 article from Fortune is found on page 172 in our appendix. The substance of that piece under the title of "Corporate Farming—A Tough Row To Hoe" is, quote: ". . . as soon as the (farm) operation grows beyond the ability of its owner to stay on top of his field operations, where critical decisions must be made daily, costs begin to mount. Overhead, in particular, can soar as extra layers of management are needed. And experienced supervisors, with no direct personal stake in the enterprise, will not only demand higher salaries than an owner might pay himself, but will almost certainly be less conscientious or willing to work long hours under unpleasant conditions." unquote.

Fortune also said, quote "An old adage holds that the essential factor in profitable farming is 'the shadow of the owner on the land.' . . . Personal, day-to-day supervision by a man with a substantial stake in the enterprise *does* appear to be more important in agriculture." unquote.

Our people want to know when they will be able to put their shadows on the land in Westlands as the law says they have the right to do.

The conservative U.S. Department of Agriculture's studies also have confirmed the efficiency of the small farm. Although the department generally favors the large commercial farm, its economic studies in 1974 concluded that the optimal size for efficient irrigated farming in California is: Cotton, 400 acres and vegetables, 200 acres.

See our appendix page 169 for a full account of this study.

Westlands is a highly inefficient farming community by these Department of Agriculture Findings.

The District reported that in 1974 it served 207 customers and 445,000 acres for an average farm size of 2,100 acres. That's five times the optimal size for efficient irrigation of cotton, but just about right for the dry-farming of grain in Kansas or Montana.

From an ecological point of view, smaller farms tend to be more labor-intensive, so are less dependent on fossil fuels and the dead-end petro-chemical habit than large scale highly mechanized corporate operations.

Finally, the small farmer who lives on the land has a greater sense of stewardship toward his property. It is is home, his life, not just his livelihood. His land is more to him than just a number on the balance sheet in some New York accounting firm. Therefore, he takes better care of it.

So if the Westlands situation is illegal, inefficient, and ecologically deficient, by what logic can we permit this land and water monopoly to continue?

At the same time, new small farmers are appearing to reaffirm the efficiency of these small operations, the other element in our constituency, the consumers, are beginning a reaffirmation of their own in the best old American spirit of free enterprise and community cooperation, they are taking control of their food supplies through alternative distribution systems both retail and wholesale, and are actively seeking ways of cooperating directly with small farmers.

These new systems which are springing up through the country, as well as in California, involve a cooperative sharing of responsibility, labor and knowledge. As this alternative consumerism is building, other folks are strengthening the established co-op outlets illustrated by the big co-op chains in the San Francisco Bay Area.

Our organization, National Land for People, furnishes this gathering coalition of consumers and farmers with research, public education and legal support.

Our research in Westlands everyday confirms the findings of every other serious independent study I have ever seen of the excess land law; and this is: there is a widespread violation of both the letter and spirit of the law with the express approval of the Bureau of Reclamation. The Bureau is using public funds to thwart public policy for the narrow private gain of the big landowners. The most damning testimonial against this set up has come from a former assistant solicitor of the Department of Interior, Geoffrey Lanning. Lanning in a 1975 paper on page 15 said, quote:

"The Bureau of Reclamation deliberately violated or avoided the 160-acre limitation, doing so by failure to administer the law at all, or when pressed, by having its captive lawyers write crude loophole provisions that let the many big landowners ignore this public safeguard." unquote.

In footnote 64, page 55 of his paper, Lanning said, quote: "The writer as the assistant solicitor of the Department of Interior had the opportunity to see at first hand over a period of years the overt bureaucratic bias inherent in this deliberate avoidance of the family farm laws. These efforts on behalf of the large landowner were evident at every level of the government decision processes supposedly created to enforce such laws as the family farm provisions. The participants in this closed decision process included the Bureau of Reclamation, the Interior Department generally under both Secretaries Udall and Hickel, the Solicitor's Office, the Justice Department and the courts. To tell this tale alone would provide a very considerable documentation of the role of large concentrations of power in keeping public interest processes closed to all but themselves." unquote.

The Fresno Bee which downplayed the Westlands hearings in 1964 and 1966 finally, last year, became exasperated with all the wheeling-dealing, and in an editorial on March 21, 1974, concluded as follows under the headline, "Land Speculation Specter Rises in Westlands District", quote: "It does not seem, therefore, that Brody is living up to the assurances he gave years ago." unquote. Full text of this editorial appears on page 159 of our appendix.

After working in the Fresno County Recorder's office files for several weeks, our researcher Marc Lasher called me and said, quote: "George, I just realized I've been looking at this stuff for months and have yet to find one legal excess land sale." unquote.

Based on our research, our reading of the contract before you, our understanding of the Federal Reclamation law and within the context of my long personal experience in the San Joaquin Valley, we make the following recommendations:

1. That this panel initiate a full staff investigation of entire Westlands contract and the administration of the Federal Reclamation laws in the Westlands and related documents and questions we will furnish here today and later. We have neither the resources nor the access to do a complete investigation.

2. That after such investigation full hearings be held in California on the issues raised in these hearings and the facts uncovered in the investigation. Effective action depends on your having a firsthand knowledge of the conditions and the flavor of life in the San Joaquin Valley. Besides many people who should be heard cannot come to Washington.

3. That pending the outcome of the investigation and the California hearings approval be suspended on the contract before you.

4. That pending the outcome of the investigation and the California hearings, the Bureau of Reclamation suspend approval of all excess land sales.

5. That the Justice Department be encouraged to reopen the probe into Westlands excess land sales which already has produced one series of federal indictments—the first ever under the 70-year-old excess land law. The indictments, limited to one buyer group in one sale, but ignoring the seller, the financier and the Bureau, indicate to us that a whitewash is underway.

We believe these five recommendations to be interdependent and all prerequisite to giving family farmers their legal access to federal water including Westlands. This access is now denied. We have the proof. We believe that cleaning up the language of the Westlands contract before you to be only the first step in this program—but a very crucial step.

The contract provides the Bureau of Reclamation with several more wrinkles with which they can assist the Westlands excess landowners evade the law. One, as mentioned earlier is the resurrection of unavoidable clause; another is a provision which allows excess owners to sell excess land under recordable contract to other excess owners. These two provisions plus much other questionable language requires careful scrutiny by sharp legal minds outside of the Bureau and the Departments of Interior and Justice and not on the payroll or waiting list of any large landowners.

I have lived in Fresno for over 22 years. About 20 years ago I became interested in federal reclamation because it is obvious out our way that irrigation is the source of our wealth and the root of the economic and political power of our state. Without irrigation we would grow little more than winter grains, a few grass-fed cows and a lot of sagebrush. And, not so incidentally, without aqueducts, we wouldn't have any big cities either. With irrigation and aqueducts, all of them financed and subsidized, totally or in part, one way or the other by the Federal Government, California has become the nation's richest farm state.

My home, the San Joaquin Valley, is the richest farmland in all the history of man. The 130-mile stretch including Fresno, Bakersfield and the Westlands produces more food and fiber than 41 states. As one example, we have the nation's second largest cattle feeding yard, and the man who owns it also is helping the Arabs get into the same business.

The production here is staggering and combined with the international implications, frightening when I think about the economic and political power inherent in all this wealth . . . All this wealth made possible by a multi-billion dollar expenditure of public funds federal, state and local. So when we consider which way for westlands we cannot weigh the issues as some isolated little rural problem which must be decided here in Washington merely because federal money and principles are involved. No, Senators, we are dealing with one of the central issues of our time. Federal money and principles to be sure, but more than that: control of our food supply in a food-short world. Control of a water supply which, according to the terms of the Westlands contract, can be used for industry and cities as well as irrigation. And finally control of our governments and our lives. This is the full context of the Westlands issues as we see them.

I first came to Washington on California reclamation in 1959, toting a color-coded map of the big San Joaquin Valley landowners. This map was used on the floor of the Senate by Senators Douglas and Morse as they talked one of the bad sections out of the San Luis authorization bill. Carrying the same map I returned in 1964 when Senator Nelson also was successful in changing some of the worst language in an earlier Westlands contract. I return today with the same map, now a color slide which was made just before the map totally disintegrated.

After 16 years of constant public use, this map is still a valid illustration of the landownership pattern on the west and south sides of the San Joaquin Valley including Westlands. Very few of the names have even been changed.

A couple of the big holdings have been absorbed by conglomerates: Bangor-Punta took over Producers Cotton Oil and Southlake Farms in the Westlands; Tenneco bought Kern County Land Company (outside of Westlands) and then sold large pieces to Superior Oil, one of the big stockholders in Texaco and the Roberts-C. Arnholt Smith combine. Smith hails from the now bankrupt, legally-snarled First National Bank of San Diego.

The largest owner in Westlands, Southern Pacific Railroad remains intact, as it was in 1959, except for right of way easements for the big canal and the interstate freeway, also financed by federal taxpayers. Southern Pacific, the state's biggest private landholder, owns nearly 110,000 acres of the Westlands' 600,000 acres.

Other huge Westlands holdings include Standard Oil of California, over 11,000 acres and Boston Ranch, 24,000 acres, owned by J. G. Boswell who serves on the board of directors of Safeway Stores and is related to the owners of the Los Angeles Times.

Anderson-Clayton, the world's largest cotton marketing firm and the leading exporter of Brazilian coffee, farms 26,000 acres in Westlands, of which it owns about 11,000 and leases the rest.

Russell Giffen, over 70 and ailing, is the only large Westlands owner who has sold out, perhaps more for probate than excess land law reasons. With U.S. Bureau of Reclamation approval he sold some of his excess holdings to a number of organizations who already were big farmers in Westlands including his son, Price, his son-in-law, Sumner Peck, and the world's largest packer of cantaloupes, Telles. A beer distributor got over 2,000 acres, Japanese trading corporation financed 3,000 acres. All of the sales are plus leaseholds, mainly of Southern Pacific land. About 4,000 acres were sold to two men who in 1971 assumed control of the Giffen operation as Giffen retired. One of the men signed some of the sales documents as both the seller and the buyer. In many respects the color-coded map we prepared in 1959 is immortal—at least to date.

For the record I would like to submit charts and explanations on 35 excess land sales in Westlands, sales which we have researched and which we consider to violate both the spirit and the letter of the law. All of these sales have been approved by the Bureau of Reclamation as legal. I will review just a few of them verbally. Chart number one was researched and produced about a year and a half ago. Chart number 35 was completed last Saturday.

Almost every one of these sales involves several buyers in a group. We have examples of joint grant deeds and joint mortgages. In one instance an excess owner sold a piece of excess land and six transactions, two years and a friendly foreclosure later was the owner once again (Chart number 21). Just eight days before the friendly foreclosure, the Bureau of Reclamation filed a document with the Fresno County Recorder releasing the land from the excess land law because, the bureau said, all the requirements of the law had been met.

One sale involves 25 people in undivided interest on 4,000 acres. The land (See chart number 8 in our appendix) is contiguous with and farmed as one unit by the number 1 buyer, Telles, who even before the purchase was a big landowner in Westlands and an adjacent district. The Telles operation is colored maroon on our map. How can any one of the 28 buyers separate out their own allegedly non-excess 160-acre interest in that 4,000 acres? They can't because this sale and all of the other 34 were put together specifically to evade the excess land law.

In the past year the bureau has been asking that we put all of our information requests in writing. This we have done. Their written answers are revealing. Every time we have asked for the approved price parcel by parcel we have been told, quote: "Our analysis of this sale was made on the basis of the seller's request for price approval which did not break down the proposed price paid by parcel." unquote. We have five letters from the bureau containing substantially this same statement. Copies of all these are included in the appendix, page 134.

Two important points are made in these Bureau letters: first, there is, admittedly, no parcel by parcel price determination; second, all of the group sales are referred to in the singular as a sale or a purchase, not sales or purchases. These two points are to me confessions that the Bureau, consciously and openly, is approving illegal excess land sales in the Westlands.

Furthermore, the Bureau of Reclamation has allowed the unchalleneged circulation, by sellers of excess land sales, of conditions which specifically exclude small buyers. We submit in our appendix page 100, two sets of conditions made by Giffen, the only big Westlands operator to sell out completely, at least on paper. I urge your careful consideration of these conditions. Some seem to have restraint of trade implications. However, I will mention only those excluding small buyers.

Pearson Realty circulated the Giffen offering with this qualification, quote: "Buyer will accept offers on a tentative basis only and subject to finding buyers for all of the ranch, and subject to replacement, in the case of overlapping offers, by offers involving a larger acreage. An offer for two sections, for example, could be replaced by a subsequent overlapping involving four sections." unquote.

Four sections of land equals two thousand five hundred and forty acres. The list of conditions circulated directly by Giffen said under number 21, quote: "Escrows for all the property sales must close simultaneously or at seller's option all escrows will be rejected and terminated." unquote.

In condition #4 Giffen said, quote: "It shall be the responsibility of purchaser of fee property as to whether or not such purchaser is qualified to receive water under federal Reclamation Law. Buyer must submit names in which fee property title will be taken within 15 days after opening of escrow . . ." unquote. Could any reasonable person expect compliance with the excess land laws when such conditions are circulated?

We have been researching, producing and circulating these charts around the San Joaquin Valley for the last year and one-half, since early 1974. About the first of this year, 1975, a federal grand jury began an immaculate conception investigation of one buyer group in one sale of excess land in Westlands, a sale which we had first researched, charted and circulated about eight months previously. That's our Chart number 2.

In several newspaper stories the U.S. Attorney pointedly remarked that he was probing only the buyer group, not the seller or the financier or the Bureau of Reclamation which had approved the sale as legal. It sounded like the immaculate conception idea applied to property transactions. The buyers couldn't evade the excess land law by themselves. If something was allegedly illegal, how come all parties weren't being investigated?

I raised this question through one of our attorneys who contacted the U.S. Attorney. I was called by the FBI and spent three hours with a local agent, explaining our charts one through five. After I finished the agent sighed, "Bank robberies are a whole lot easier." And that's the last I heard from either the FBI or the U.S. Attorney.

Presently, the jury did, in fact, indict only persons in the buyer group on that one sale. I interpret that action to be the first step in a whitewash. The people indicted are a local speculator—subdivider held in low public estimate plus three of his associates. He is and has been on the financial and legal skids for about a year. A couple of his operations have been foreclosed, and he's small potatoes compared to the big operators in Westlands. So, it reads to us like the old scapegoating shuffle. This speculator's hide will be tacked on the wall. All the good people will say, "See we caught the crook, now everything is all right" which means to me the rip-off game will go on as before. The handling of this case by the Justice Department indicates to me a somewhat less than enthusiastic pursuit of law and order. I would like to mention specifically only one more of our charts, Number 3, which I turned over to the FBI during the grand jury investigation.

This sale, known as Bureau parlance, as "Rogers Group Purchase" was financed by an international Japanese trading corporation, the new family farm as officially recognized by the Bureau of Reclamation. All transactions were recorded on the same day. The sales, the leases and the mortgages. But notice the dotted line on the left, all of the improvements on the land, the pipelines, the buildings, etc. were sold separately to Jubil Farms, which is the operating company in this case. How can, the alleged buyer, Verlin Pitts and wife, have independent and individual control of their parcel—a supposed Bureau of Reclamation criterion—if somebody else owns their irrigation pipe? Here's a photograph of the Jubil Farms which with purchased and leased land, covers nearly eight square miles. That's a family farm? Here's how it looks on a map of the Westlands.

We have produced much hard evidence. Mr. Lasher and Mr. Eklund and others have worked many long months, but we are no match for the bureaucracy of either the Department of Interior or the Westlands Water District. We have no large amounts of public funds at our disposal, so in the paper war of the memorandum, the regulation and the interpretation their copy machines will bury us. They—the Bureau and the Westlands—control that paper, despite the fact that it all is public information, they are making it progressively more difficult for us to get at it. In our appendix, page 160, Mr. Lasher recounts two recent frustrating experiences.

In our frustrations we have lumped Westlands and the Bureau together, but overall, the Bureau, not Westlands, has the bottom line responsibility for enforcing the law. We have no great quarrel with the Westlands, even though it is a public agency, because we know it is owned lock, stock and barrel by the big landowners through a voting system based on property. We expect them to squeeze every possible dollar out of the federal treasury.

They have hired as manager-counsel, Ralph Brody, who represents their interests very ably, personably and pursuasively for the biggest salary paid any public official in the State of California—nearly twice as much as the governor.

I'm sure when our family farmers take over the Westlands, Mr. Brody will represent us with equal vitality, although probably at a much lower salary. In any case the paper war is largely irrelevant. The real test of the excess land law is not paper, but reality.

Where are the family farms in Westlands? Well, here are the farms as certified legal by the Bureau of Reclamation. (show photographs of big landholdings, refer to map and charts of sales.)

The final measuring stick to apply in Westlands is this question: What kind of a society do we want? Huron with about 1,200 residents is the only city in Westlands. According to the U.S. Border Patrol, Huron, for its size, is the worst area in the San Joaquin Valley for illegals. Two mayors and two police chiefs have resigned in one year. On a recent court deposition, one police officer testified that the city council wanted two kinds of law enforcement: one for wetbacks and one for residents. Much of the retail business is bars with prostitutes. This spring Huron experienced a VD epidemic according to its city administrator. See our appendix page 180.

Mendota is a small city just outside the Westlands Water District. Several years ago city residents petitioned for formation of a hospital district. The two largest property owners in the proposed district, Giffen and Anderson-Clayton, protested. The district was not formed.

By whatever standard of equity we apply—legality, morality, social stability, democracy, ecology—the current pattern of Westlands land tenure is undesirable. That pattern is not changing, but it is about to.

Many of us feel like a colony, a developing nation, with much of our natural resources controlled from the mother country and elsewhere, places like Washington, Los Angeles, New York, Houston and Tokyo. I suppose we have the same feeling as the founding fathers of our country had, and so we begin to think of ourselves as a liberation movement in the true spirit of the American Revolution. Maybe we'll have to write some sort of a declaration of economic independence. It's perhaps poetic justice that as we are gathering our strength, as we small farmers and consumers are beginning to activate our common interests, our country is celebrating our revolutionary bicentennial. Like our country's founding fathers before us, we will win. Our cause is just, the usurpations we have suffered are great and we are a part of a great new spirit in the country—a new spirit which is in fact a reaffirmation of the American ethic of individual liberty, free enterprise and community cooperation. We San Joaquin Valley colonists with our consumer allies in the cities will redo the Westlands and the surrounding land baronies, sooner or later. And our winning will be an occasion of liberation for all our valley, ourselves and also those who now dominate this richest land and have the full responsibility for running the valley, our lives and much of the world. We will free them from this inhuman burden and with our consumer allies in the cities begin to build a food system, more democratic and more in tune with the life forces on which we all depend.

This victory will come. It will be quicker, easier and more reasonable if you join the fight. With your help we in the San Joaquin Valley can honor our bicentennial in the only way that really counts: by carrying forward the patriotic ideals on which this country is founded.

Mr. Ballis. Without reading the entire thing and trying [illegible] repeat anything that Dave said, because he summarized some of the research that we have been working on, particularly in the last year and a half, I would like to say a couple of words about our organization.

Our board of directors is composed of seven people, six of whom are active working farmers on acreages ranging in size from 2 to 150, with experience ranging from 2 years to 40 years. Our vice president is a man named Jose Reyes. This year he is farming 10 acres. He is a lifelong farmworker who started farming on 1¾ acres with a partner 2 years ago. They grew cherry tomatoes. On that 1¾ acres they grossed $20,000; they netted $16,000. They were able to net $16,000 because cherry tomatoes are a labor-intensive crop, and between their two families they had enough labor to do all of the work.

The treasurer of our organization is a lady named Jessie de la Cruz, a lifelong farmworker. She, with her husband, Arnold, 3 years ago started to organize a farmworker co-op, six farmworker families on 6 rented acres of cherry tomatoes, squash, and related vegetables. They grossed $65,000, enough money to buy 40 acres and prepare the land for a crop. They have been farming that land for the last 2 years.

The Chairman. What does that land sell for an acre?

Mr. Ballis. They paid approximately $400 an acre for marginal land which does not have any water. They had to sink a well, and they are having problems in that the well broke about 2 weeks ago and they did not have any water, and they had to borrow water from a neighbor. They knew that land was marginal land when they bought it; but there was nothing else available, and they wanted to be farmers. They wanted good, cheap land, with good, cheap water.

The Chairman. How many bushels of cherry tomatoes could you get from an acre of that land?

Mr. Ballis. In the San Joaquin Valley we have a very unusual situation in that we have a much longer crop year than you have in Wisconsin, and people can pick cherry tomatoes from mid June until it freezes in the middle of November. On an acre of cherry tomatoes, they will get 5,000 boxes of cherry tomatoes. Now, this is all by way of saying in a very specific way, a very general thing, that small farms are more efficient than big farms.

Our board of directors has 2 to 40 years of living experience, living proof of that proposition.

Now, there are some very conservative confirmations of that proposition from Fortune magazine and from the U.S. Department of Agriculture. We have inserted in our appendix—which we also want to submit to you for the record to document some of the research we have done—a Fortune magazine article which says, in August 1972, under the headline, "Corporate Farming, a Tough Row to Hoe:"[1]

> As soon as the farm operation grows beyond the ability of its owner to stay on top of its field operations where critical decisions must be made daily, costs begin to mount. Overhead in particular can soar as extra layers of management are needed, and experienced supervisors with no direct personal stake in the enterprise will not only demand higher salaries than an owner might pay himself, but will, almost certainly, be less conscientious or willing to work long hours under unpleasant conditions.

Fortune says later on in the same article, "An old adage holds that the essential factor in profitable farming is the shadow of the owner on the land. Personal day to day supervision by a man with a substantial stake in the enterprise does" and Fortune puts does in italics, "appear to be the most important fact in agriculture."

Our people want to know when they will be able to put their shadows on the land in the Westlands.

The CHAIRMAN. What is the date of that article?

Mr. BALLIS. August 1972, and we have a Xerox copy of that article in our appendix, in its entirety.

Senator HASKELL. Is this land within the Westlands project? Could it all be used for growing cherry tomatoes?

Mr. BALLIS. Cherry tomatoes, vegetables, tomatoes are grown in the Westlands.

Senator HASKELL. In other words, what I am really getting at is whether 160 acres is adequate to support a family. I gather the answer to that question is yes in that particular area.

Mr. BALLIS. Resoundingly yes, in that particular area, with that particular water supply, and that particular climate.

On page 2 of my testimony, I also refer to the U.S. Department of Agriculture study on the efficiency of the small farm, under a headline, "One Man Farm Is Hard to Beat." A summary of that study is also in our appendix. The study says the optimal size for efficient irrigated farming in California for cotton is 400 acres; vegetables, 200 acres. A summary of that report is on page 169 of our appendix. From that point of view. Westlands is a highly inefficient farming community.

The district reported in 1974 that it served 207 customers and 445,000 acres for an average operating farm size of 2,100 acres. That is five times the optimal size for efficient irrigation of cotton, according to the Department of Agriculture, and just about the right size for the dry farming of grain in Kansas or Montana, according to that same Department of Agriculture study.

So, I wanted to make that point very specifically because in our discussions around the country and our correspondence, we get a lot of questions from people saying you cannot make it with a 160-acre limitation—you have to have two sections or you have to have 5 square miles. I think independent studies, like the Department of Agriculture, Fortune magazine, which is, you know, the corporate house organ in America, admit that a 160-acre limitation is well within the limits of efficiency. In fact, in our area, it is a more efficient operation.

Now, we have 35 charts similar to those there. There are, I think, 12 on these boards which indicate to us that the premise of reclamation law and the expectations that we had from the 1964 and 1966 hearings are not being met.

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

Now, in many ways it seems like we are doing the same old thing over and over again, and in many ways I would hesitate to do the same thing over and over again. It seems like we are fighting the same old battle against the same old big land owners, in coalition with the bureaucrats against the interests of small farmers.

Now, I would like to say that I think it is a different battle today than it ever has been. We have two different factors in America. It is a different country. We have an active constituency of people in the San Joaquin Valley who want land; and we have petitions and letters from these people in our appendix.

The CHAIRMAN. People who want to buy land?

Mr. BALLIS. Who want to buy land, who want to go into farming, but they cannot get good land. It is not available. The law very specifically says that they should have access to the Westlands, and they are very specifically excluded from the Westlands by the policies of the Bureau of Reclamation and sales which the Bureau of Reclamation allows to take place.

The second factor which we have, which is different from ever before, is that we have a new consciousness in the country from people all over—not only in rural areas, but all over the country, in the big cities. People are more conscious of land, their relationship to it, their relationship to the life forces upon which we all depend, and their relationship to the quality of their food. There are a lot of people in the cities who want a more rational, democratic, more nutritional food supply.

Dave Weiman referred specifically to the law, and I do not want to deal with that. We agree with his testimony, and I think the record is pretty clear on what the Bureau has allowed to happen. We have the charts here—35 of them—and we have just begun to work.

I would like to read specifically one part of my testimony on the conditions of the Giffen sale. Giffen is the only large landowner in the Westlands who has completely sold out. He is over 70 and ailing, and the way the sale was put together—there were conditions which were applied to that sale which indicate to us that the sale took place more for tax and probate purposes than for excess land law purposes.

Now, let me deal with some of the circulars which were passed out to a very select group of people on the Giffen sale. Pearson Realty circulated the Giffen offering with this qualification:

> Buyer will accept offers on a tentative basis only, and subject to finding buyers for all of the ranch, and subject to replacement in the case of overlapping offers by offers involving a larger acreage. An offer for two sections, for example, could be replaced by a subsequent overlapping offering involving four sections.

Four sections of land equals 2,540 acres, slightly in excess of the 160 acre limitation. The list of conditions circulated directly by Giffen said under No. 21, "Escrows for all the property sales must close simultaneously or at seller's option all escrows will be rejected and terminated." That is on page 9 of my testimony.

In condition 4, Giffen said:

> It shall be the responsibility of purchaser of fee property as to whether or not such purchaser is qualified to receive water under Federal reclamation law. Buyer must submit names in which fee property title will be taken within 15 days after opening of escrow.

Could any reasonable person expect that the excess land law would be effectively enforced when those conditions are in existence and their circulation is permitted by the Bureau of Reclamation?

Senator HASKELL. Did this offering or circulation have the approval of the Bureau?

Mr. BALLIS. I do not know that it had the approval of the Bureau. All that I know is that it was circulated and the Bureau approved all of the sales.

Senator HASKELL. Fair enough.

Mr. BALLIS. I would assume that they saw it.

We have been researching and producing and circulating these charts here on the San Joaquin Valley since early 1974. About the first of this year, 1975, the Federal grand jury began what we in Fresno like to call the immaculate conception investigation of one of the buyer groups in one of the sales in Westlands, a sale which we had first researched and charted about 6 or 8 months previously. That is our chart No. 2.

In several newspaper stories, the U.S. attorney pointedly remarked that he was probing only the buyer group, not the seller, not the financier, not the Bureau of Reclamation which had approved the sale as legal. It sounded like the immaculate conception idea applied to property transactions. The buyers could not evade the excess land laws by themselves. If something was allegedly illegal, how come all of the parties were not being investigated?

Now, subsequently an indictment was returned. I raised the question that I raise here—I raised it while we knew the jury was sitting. I was presently contacted by the FBI. I showed them our charts Nos. 1 through 5, and I spent 3 hours with this agent and the charts. At the end of the 3 hours, he sat back and sighed, and he said, "Bank robberies are a whole lot easier." That is the last I heard from the FBI or the U.S. attorney.

Presently they did indict four members of the buyers group on chart No. 2.

Now, the lead person indicted is a local subdivider land speculator in Fresno, and he is held in rather low esteem. He has been on the financial and legal skids for the last year. He is not a member of what we in Fresno call the Westside Club; and it is our evaluation of what is happening, that the old scapegoating shuffle is taking place, and that we will presently see this man's hide tacked on the wall, and they will say see, we cleaned the whole thing up. We caught a crook and everything is now all right. This means to us that this land ripoff is going to continue as it has continued.

You asked Mr. Weiman about what it looks like out there. We have a set of photographs of various of these farms, and you can see from horizon to horizon there has been little or no change since the sale. In some areas, like in chart No. 2, the farming operation is the Shannon operation. There is one building, one new building on that piece of property since these alleged 12 individual family farmers have taken over. There is one new building and it houses tractors.

Now, if we look closely at some of these other sales, what we see is buyers, groups of buyers using the same address, a business address. We see groups of buyers having undivided interests in one piece of land. We have groups of buyers having a group mortgage; and it is our understanding of the reclamation law that an individual buyer is supposed to be able to have individual and independent control of his alleged parcel.

Well, if I am in a sale with 27 other people on 4,000 acres of land, and we all have a joint mortgage, it is just legally, physically impossible for me to separate out my interest. The fact of the matter is that this was never intended anyway in this sale in any of these sales. These sales were put together to evade the acreage limitation. It is very obvious from the way the financing is put together, from the way they are approved by the Bureau. The Bureau of Reclamation about a year ago decided that we ought to put our requests for information in writing, and that was a good idea because we are getting back some very interesting answers—like we sent letters saying we would like this sale, this group sale, we would like the prices broken down parcel by parcel, and we have five letters saying substantially that they cannot break down the price parcel by parcel because it was not priced that way in the first place at the request of the seller and/or the buyers.

So, when we have group mortgages, and we have undivided interests, there is no way that there is independent and individual control by the name or the person who happens to be in one of our little squares over there. They are put together by big operations as the conditions indicated—the Bureau indicates them, because they refer to the Rogers group sale or the Shannon group sale, or whoever the lead person happens to be.

We have a list of recommendations, and we would like to recommend that this panel initiate a thorough staff investigation of our findings. You have access to a lot more information than we can get, like income tax returns, like a thorough digging into the Bureau of Reclamation. We are finding increasing difficulty in getting information from the Westlands Water District and the Bureau of Reclamation. In other words, we do not have the access to really get to the bottom and to actually legally prove everything we have said here today; and, after that staff investigation, we recommend that hearings be held in California. I think it is important that this panel, that the Senate, that the Congress really look at the Westlands Water District.

We have photographs here—you can do a lot of things with a wide angle lens. You know, I could hide a building off this corner, and there could be maybe 25 houses over here. There are not; but, you know, the photograph does not tell it. You should drive out there after the staff investigates it; really get the feel of the land and see what is happening to the valley. The other thing is that there are a lot of people who cannot come to Washington to testify but who really have important things to say. I think that you should hear those people.

Now, pending that investigation and those hearings, I think approval on this contract should be suspended. I think that the Bureau should be asked to suspend approval of any excess land sales pending the outcome of this and getting to the bottom of the situation.

I would like also to recommend if there is some way that the Justice Department can be prodded into getting rid of that immaculate conception idea of property transactions . If there is a transaction, that means it takes a number of parties; and if there is an illegal thing, it seems to me that more than one party is involved.

Now, we have a lot of frustration about getting this information. We want you to help us get to the bottom of it.

When I first came to Washington in 1959, I brought a colored map at that time indicating the large landowners in the San Joaquin Valley. That map was used on the floor of the Senate successfully by Senators Douglas and Morse in changing the original San Luis legislation. I returned with that same map in 1964 and we were partially successful then, too. I have since made a slide of that map.

Now, the colors that are shown on that map are not significantly different. It is still an adequate, factual representation of how the land is parceled out. It has not changed. In fact, in some ways it has gotten worse. Now, it is going to change because the country is changing, and it is going to be a whole lot easier and more rational and quicker if we all do it together.

We feel, National Land for People feels that it is representing a new spirit in the country which, in fact, is not a new spirit, but a reaffirmation of the basic American ethic of free enterprise, community cooperation and individual responsibility.

I want you to come to the San Joaquin Valley and talk to some of the people who have taken that initiative on their own.

That is all I want to say.

Thank you.

The CHAIRMAN. Thank you very much.

We conducted hearings, as you know, in 1964 and 1966, and the purpose of those hearings was to take testimony on the plans for implementation of the reclamation statutes. The purpose of these hearings now, since 10 years has gone by, is to take testimony to determine whether the spirit and the letter of the law are being complied with.

We will be hearing from a number of witnesses, including the Bureau of Reclamation. We also will have hearings in California.

Thank you very much for your presentation. Obviously you and your two associates have done a lot of very detailed research and work in preparing the materials you have made available to the committee.

Thank you.

Our next witness is Mr. Angus McDonald, former director of research, National Farmers Union.

Mr. McDonald, the committee is pleased to welcome you. Your statement will be printed in full in the record, and due to time limitations I would hope that you could summarize the main points you want to make. If there is duplicating material in your full statement, that will be printed in the record in any event.

We always like to give witnesses all the time they desire, but nonetheless we are stuck within some time parameters, and it would be helpful if you could summarize your main points.

[The prepared statement of Mr. McDonald follows:]

STATEMENT OF ANGUS MCDONALD PERTAINING TO THE WESTLANDS WATER DISTRICT OF THE CENTRAL VALLEY RECLAMATION PROJECT AS AN EXAMPLE OF THE EFFECT OF FEDERAL POLICIES UPON FAMILY FARMS AND THE INSTITUTION OF FAMILY FARMING

I appreciate the opportunity to appear here and present my views on Federal reclamation policy as administered in California. As a former associate legislative representative and research director of the National Farmers Union, I am somewhat familiar with reclamation laws and policies as carried out by the Congress. Congressional policy as represented by many statutes was, during my 22 years of service in the National Farmers Union, identical with my own views. I represented the organization at many hearings and conferences with Congressional and Executive authorities. Farmers Union policy in regard to reclamation was represented by many resolutions adopted unanimously at national and state conventions over a period of more than 50 years.

The purpose of the reclamation program and particularly that part of the Reclamation Act of 1902 commonly referred to as the 160 acre limitation is to preserve, encourage and extend the family farm. I believe that the preservation of the family farm is not only in the interest of farm people but in the interest of those living in towns and cities. Perversion and maladministration of statutes which purport to preserve and encourage the family farm is inimical to the existence of an equitable economic society and even to democratic government.

Early in my career as a legislative representative my attention was called to the fact that the 160 acre limitation was opposed by the great landed interests in California. The excuse given by the great land corporations for opposition to the 160 acre limitation was that the family farm was inefficient, that it was an outmoded and antiquated system of production. I am attaching to this statement two documents which disprove this allegation. One is a study I made in 1968 based on 138 studies which include every important type of agricultural production in the United States. Producing costs on typical family farms in every instance were lower than on "factories in the field" type operations. For more detailed facts and statistical analyses see ECONOMIES OF SIZE IN FARMING, Agricultural Economic Report No. 107, Economic Research Service, U.S. Dept. of Agric. Feb. 1967.[1]

The other document is an article[1] in the Dec. 1, 1967 National Farmers Union Newsletter, titled, "The Myth of Corporate Efficiency." This article is based on studies which I made during the 1960s which prove by means of statistics released by the Internal Revenue Service that the overwhelming majority of large corporate farms operated at a loss. For example during one year only 4,212 of 12,517 farms with gross sales of $50,000 to $500,000 showed a profit. I also refer the Committee to a study I made entitled, "160 Acres of Water," which was published by the Public Affairs Institute in 1958.

In 1959 my interest in reclamation law was sharpened by the approval of S. 44 by the Senate Interior Committee. This legislation authorized the San Luis reservoir and distribution system in the Central Valley of California which would irrigate about 1 million acres. About one half of the area to be irrigated was specifically exempted from the 160 acre limitation. Organizations which included the Farmers Union, the Grange, the National Catholic Rural Life Conference and the AFL-CIO opposed the legislation in part urging that all of the lands within the project be subject to the limitation. I pointed out to various Senators that under the authority of the Warren Act of 1911 all water flowing from federal reservoirs and flowing through federal canals were subject to the limitation.

Since the legislation had already been approved by the Committee the effort to get it changed appeared hopeless. Nevertheless George Ballis, a young man from California who had large colored maps showing concentration of land ownership, and I interviewed Senators Anderson and Jackson and a number of other Senators. All assured us that it was useless to try to get the bill changed.

Nevertheless after a debate lasting four days on the Senate floor with Senators Morse and Douglas leading the fight the objectionable section was stricken from the bill. Senator Douglas later said: "At times it seemed to be a futile exercise. . . . we talked against what seemed to be overwhelming odds." The next year the same kind of thing occurred in the House. Al Ullman, Geoffrey Cohelan and Quentin Burdick carried the fight to the floor and won.

The San Luis episode was an example of democracy at work. It represented democracy both at its worst and its best. It suggests that special interests often get their way because Congressmen often are inclined to approve legislation recommended by the colleagues in regard to projects in their own state. It suggests that Congressmen are responsive to the public interest and that passage of bad legislation results when citizens do not keep their representatives informed and do not give them support. It illustrates, in other words, the responsibilities of citizenship.

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

In 1961 I was invited by Paul Tillett, editor of the Case Studies program of the Eagleton Institute of Politics, to write a case study of the San Luis Reclamation bill. The Eagleton Institute is sponsored by a number of Universities including Vanderbilt, Syracuse, Rutgers, Colorado, California, Wisconsin and several others. After the manuscript was completed, Representative Bernie Sisk tried to prevent it from being published. On Aug. 17, 1961, Sisk wrote a letter to Tillett "vigorously protesting publication." He said he "would be surprised if such an institution as Rutgers sponsored such a publication." He said the manuscript was a mass of misinformation and misstatement of facts. He indicated the author was incompetent. He went on to say that Dr. Paul Taylor was a fanatic and hinted that he was a communist or at least a fellow traveller. "Taylor recently acted as a consultant and advisor to Fidel Castro."

Senators Morse and Douglas, as well as Congressmen Ullman, Burdick, and Cohelan told me that my account of the San Luis bill was accurate and correct. Several commented on the statement made about Paul Taylor, who at the time referred to by Sisk was employed by the U.S. Government. Tillett and his university associates paid not the slightest attention to the Sisk diatribe. Not a word of the manuscript (later published by McGraw-Hill and distributed to political science classes in many colleges) was changed because of the letter. (I have attached copies of the Sisk letter and letters from Congressman Ullman and Senator Douglas.)

My associates were greatly disappointed when the Department of Interior by a tortuous interpretation decided that the part of the San Luis project which had been originally exempted was not to be subject to the limitation. Such a conclusion made the action of both the House and the Senate meaningless. In my opinion the decision to negate the action of the Congress exempting 500,000 acres from the limitation was a political decision.

Pat Brown, Governor of California, was up for reelection. The great economic and political machine of California would not support him unless the 160 acre limitation could be avoided on the 500,000 acres. A decision to undo the work of the Congress was necessary. But there was one obstacle. Robert Kennedy, the U.S. Attorney General, had to agree to the opinion of the Department of Interior if the hunger of the political animals was to be satisfied. In an opinion dated Dec. 29, 1961, Kennedy reluctantly agreed to the decision. He said there were grave doubts. Let Congress decide. He urged Congress to clear up the matter.

I wrote to Senator Anderson, Chairman of the Interior Committee, on Jan 25, 1962 urging that his committee act to set aside the Dept. of Interior's decision. There was a provision in the law that the action of Interior could be cancelled if either Interior or the Committee acted within 90 days. The Senator answered on Feb. 28 and said that the Committee had discussed the proposed contract and the decision and agreed with the Solicitor of the Dept. of Interior.

Senator Morse was resolved not to accept defeat. On April 2, 1962 he introduced a resolution which would have reaffirmed the action of the Congress in 1960 and make the 500,000 exempted acres subject to the limitation. There was some discussion of the resolution on the Senate floor, but Morse's view did not prevail.

In the meantime a contract regarding the San Luis (called the Westlands Contract) had been negotiated. My associates and I felt that the contract was worse than nothing. It would not only avoid the limitation on the 500,000 acres but was an open invitation for the big landowners to do as they pleased. For example, there was the unavoidable clause which said you couldn't stop the big landowners from getting project water because it would flow to them from underground. This was not considered a violation.

There was not a word in the contract about making the landowners sign recordable contracts saying they would get rid of their excess lands. Sec. 12 of the Reclamation Act of Aug. 14, 1914 (8 Stat. 689) said:

"Before any contract is let or work begun for the construction of any reclamation project . . . the Secretary of Interior shall require the owners of private lands thereunder to agree to dispose of all lands in excess of the areas which he shall deem sufficient for the support of a family. . . ."

The Act of May 25, 1926 (44 Stat. 649, 650) said: ". . . land in excess of 160 acres per ownership shall not receive subsidized water if the owners refused to execute valid recordable contracts."

My associates and I were active in 1964 in attempting to get the Dept. of Interior to revise the Westlands contract. It would be tedious to recount the number of conferences, letters and conversations involving the contract. Jim Patton, President of the National Farmers Union, wrote to Secretary of Interior, Stewart Udall, a number of times and finally went to President Lyndon Johnson. On July 29, 1964, he delivered a letter to Lyndon by hand and pointed out that the Westlands Contract was "political dynamite and can be extremely embarrassing to a number of Senators up for reelection."

On Oct. 9, 1964, Ken Holum, Assistant Secretary of Interior, called me and *my associates and said that the contract was being revised in accordance with* our desires. The Holum memorandum changed the contract in a number of respects:

(1) It removed the "unavoidable" clause which said the excess landowners could get free subsidized water via underground without being considered in violation of the law.

(2) The repayment burden was to be shifted to the excess landowners by a heavy ad valorem tax even if they didn't get any water.

(3) The contract was to provide for the installation of pumps and a fully closed pipe distribution system which would prevent water from being used on ineligible lands.

My associates and I were pleased at another great victory and Secretary of Interior Udall was congratulated. Unfortunately the Holum memorandum which looked good on paper had little effect as far as I know in California. By this time Westlands was delivering some water but there is evidence that in many instances project water was being delivered to excess lands. After protest the Bureau of Reclamation started an inspection program which turned up many violations. The Bureau seemed anxious to administer the program in favor of the excess landowners. It approved "tie in requirements" to the effect that a buyer had to take a portion of the sellers non-excess lands at high prices in order to get a portion of excess land at the approved price. Another tie-in gimmick used on Russell Giffen land required the purchase of farm equipment, leases, pumps, wells and other assets of dubious value if the buyer was to get excess land at the approved price.

The Bureau of Reclamation required no payment from the excess landowner until the entire distribution system was completed. The result was that excess landowners in those areas where the system has been installed will farm all or a good part of the 10 years allowed under the recordable contracts, without paying any high assessments and may possibly turn over the entire forty year debt to the small farmers who buy the land.

A Department of Interior ruling said that an excess landowner even after signing the contract between the Westlands district and the Bureau could continue to acquire more land and request more project water for it. As of the end of 1968 more than 20% of the small landowners in the district sold out to excess landowners. Thus Bureau policy, as a result of the limitation, worked in reverse. The big ownerships got bigger and the number of family sized farmers got smaller. The ruling also permitted the sale of large blocks of land which ignored the limitation.

The Bureau accepted recordable contracts from excess landowners which made the lands difficult to sell because of the checkerboard pattern of ownership. The Bureau also accepted purchases of large blocks of land by undivided ownerships. For example 8 couples and 15 of their minor children and one corporation each bought an undivided 1/32 interest in nearly 5,000 acres. There were no new farm operations created by the sale. The ranch was operated as it always was.

The Holum memorandum has been ignored. The Bureau failed in some instances to get recordable contracts in advance of construction. The Bureau failed to pump out the amount of ground water required by the Holum memorandum.

Westlands water district controlled by a handful of large landowners administered the project to the disadvantage of small landowners. A small landowner who did not own the high corner of the quarter section had to pay the entire cost of an underground pipeline to the point where the water reached the area. A ditch may have been practical but the District did not force the adjoining landowner to allow the small landowner to construct the ditch. Landowners between the source of the water and the small landowner were uncooperative. The District assessed land with facilities at no higher than land without facilities.

My conclusion is that the purposes of the limitation law have been largely ignored. It appears that every subterfuge imaginable has been used in the Westlands District to sabotage honest and sincere enforcement. The disclosure of apparently fraudulent sales to "names," to individuals and to corporations masquerading as farmers calls to mind the land office scandals of the 19th century. Congress has ignored its oversight responsibility and the Dept. of Interior seems to have become a creature of speculators and great landowners. I have not had time to sufficiently study the pending contract and the recent documents relating to the sale of land but it appears that brazen and obvious frauds are being committeed. Only an aroused Congress can correct or ameliorate these conditions. The Small Business Committee and the Interior Committee are to be commended for shedding a little light on the dark and shady deals that abound in the Westiands District of Central Valley California.

STATEMENT OF ANGUS McDONALD, FORMER DIRECTOR OF RESEARCH, NATIONAL FARMERS UNION

Mr. McDONALD. Thank you, Mr. Chairman. I will undertake to summarize my statement.

I have some material here that I would appreciate being incorporated in the record.

The CHAIRMAN. Your full statement and whatever supplementary material you present will be printed in the record.

Would you pull the microphone up closer so that we will be able to hear?

Mr. McDONALD. Mr. Chairman and Senator Haskell, my name is Angus McDonald. At the present time I am retired, presumably, although I am a consultant to the Midwest Electric Consumers Association. I was employed by the National Farmers Union for 22 years as a legislative assistant and associate, and finally research director of the organization. I earlier became acquainted with the issue of the 160-acre limitation in California. I participated with George Ballis, who has just testified, in bringing about a change in S. 44 and a House bill which would exempt 500,000 acres in the San Luis project in the Central Valley of California.

George and I worked very hard on Capitol Hill in order to get this particular part of the bill changed so that all of the million acres presumed to be irrigated by the San Luis Reservoir would come under the 160-acre limitation. We were ably assisted by the Catholic Rural Life Conference, representatives of the AFL–CIO, the National Grange, and several other organizations. Although the bill was rammed through the committee very hurriedly, apparently, in both the House and the Senate, and we were unable to present testimony, the bill was changed to the effect that the exemption which would eliminate the so-called State service area from the limitation was taken out of the bill.

So, we thought we had won a great victory. However, by tortuous interpretation, the Department of Interior indicated that it would pay no attention to the decision of the Congress. Subsequently, I contacted Senator Anderson and other members of the committee in regard to getting the Interior Committee to review the decision of the Department of Interior, and however, was unsuccessful in this effort.

Things went full steam ahead, and were sort of capped by a decision of Bobby Kennedy, who at the time was Attorney General. Bobby indicated that there were grave questions involved regarding exempting these 500,000 acres. He said that the Congress should take care of the matter and take some action. No action was taken.

Subsequently, the contract was negotiated, and Senator Morse, and later Senator Nelson, of course, held hearings in an attempt to get a contract which would make some sense, and indicate to the large landowners that they must toe the line and pay some attention to the 160-acre limitation.

During this period, we made many trips to the Secretary of Interior's office, held many conferences with Secretary Udall and Assistant Secretary Holum, in an attempt to get the contract changed, which we thought was almost a complete giveaway as far as the 160-acre limitation was concerned.

Finally, on October 9, 1964, Secretary Holum called us and several organizations which had been working on the matter, and told us that he was submitting now a memorandum of October 9, 1964, which would substantially change the contract, would require the elimination and changes of several things in the contract which would be detrimental to the enforcement of the limitation. I think Secretary Holum and Secretary Udall did bring about this change in complete good faith.

However, my limited investigation shows that little or no attention was paid to the Holum memorandum, the so-called operating agreement. Full steam went ahead to ignore the law, and I have several examples in my statement here indicating that devious methods were used to ignore and subvert the limitation.

Now, I will not go into those because previous witnesses have given several examples which are similar to the ones that I give. I just want to say, finally, Mr. Chairman, that I appreciate very much the interest of this committee in this matter. I think it is long overdue. I believe that you are opening up an area which should have been looked into a long time ago.

My conclusion is that the purposes of the limitation law have been largely ignored. It appears that every subterfuge imaginable has been used in the Westlands District to sabotage honest and sincere enforcement. The disclosure of apparently fraudulent sales to individuals and to corporations masquerading as farmers calls to mind the Land Office scandals of the 19th century. Congress has ignored its oversight responsibility, and the Department of Interior seems to have become a creature of speculators and great landowners.

I have not had time to sufficiently study the pending contract and the recent documents relating to the sale of land. But it appears that brazen and obvious frauds are being committed. Only an aroused Congress can correct or ameliorate these conditions.

The Small Business Committee and the Interior Committee are to be commended for shedding a little light on the dark and shady deals that abound in the Westlands District of Central Valley, Calif.

That concludes my statement, Mr. Chairman.

The CHAIRMAN. Mr. McDonald, we appreciate your taking the time to come. We know of your long interest in the family farmer and compliance with the reclamation law. Your contribution over the years has been a very valuable contribution to the necessary public understanding of what this issue is all about. We appreciate your taking time to come.

Mr. McDONALD. Thank you.

The CHAIRMAN. The next witness is Rev. James Vizzard, representing the United Farm Workers, AFL-CIO.

The committee is very pleased to have you here today, Father Vizzard. We know that you have been interested in this issue for a good many years. You presented testimony before the committee 11 years ago on this issue. We are happy to have you back.

STATEMENT OF REV. JAMES VIZZARD, S.J., LEGISLATIVE REPRESENTATIVE, UNITED FARM WORKERS, AFL-CIO

Father VIZZARD. Thank you, Mr. Chairman and Senator Haskell.

My interest and involvement goes far beyond 1964 and the 1966 hearings. Part of my presentation, which I am not going to read, makes a brief summary of some of those involvements and some of the things that were said then.

As I said before, I have a feeling of deja vu—it seems we never finish with this issue. It seems at times, and particularly when we have had your help to win battles, that the warfare continues seemingly endlessly. I am hoping that someday the outcome of the reclamation program might truly be what Congress intended it to be, and which we believe in the interest of our country it ought to be.

Since I believe I write a little bit better and more coherently than I speak extemporaneously, I would like to read quickly parts of my statement.

The CHAIRMAN. Go ahead; your full statement will be printed in the record. You can read whatever excerpts you may wish.

[The prepared statement of Father Vizzard follows:]

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Rev. James L. Vizzard, S.J.
Legislative Representative
United Farm Workers, AFL-CIO

on

The Effect of Federal Law and Policy
on Family Farming,
with Special Reference to the
Westlands Water District as an
Example of the Law and Policy

before

A Joint Hearing of the
Senate Small Business Committee
and the
Senate Interior and Insular Affairs Committee

July 17, 1975

Mr. Chairman, I have a long memory and fairly adequate files, so with your indulgence I'd like to place this hearing in a historical and somewhat personal perspective. By doing so I believe it's possible to demonstrate what kind of problem and what kind of people we must deal with today.

In 1954 I wrote the following brief policy statement which was adopted by the annual convention of the National Catholic Rural Life Conference for which, as you will recall, I worked for many years:

> "The Conference is greatly alarmed at efforts being made to circumvent, if not actually to destroy, a basic principle of reclamation law: the 160 acre limitation. In the past the large farm interests, especially in California, have intrigued repeatedly but without success to subvert this law; but under the present administration they seem well on their way toward accomplishing their purpose.
>
> "We condemn any ill-conceived administrative interpretation contrary to the clear intent of the law, which, if allowed to stand, would establish a precedent destructive to the well-established tradition of widespread distribution of the benefits of reclamation projects."

It was in 1957 that I first testified on this issue before the Senate Interior Committee. Because I liked what I said then, and still like it, and because it goes right to the heart of what these hearings are intended to investigate, I believe that some of what I said then bears repeating here:

> "There is no matter of public policy which the NCRLC has supported more consistently or vigorously than the Excess Lands Law. Obviously we do so not out of any possibility of personal gain. The same we fear cannot be said of those who plead for relaxation or repeal of this long-standing legislation.
>
> "The National Catholic Rural Life Conference has taken and held its stand on principle. We believe that public policy should favor the institution of ownership not as a privilege which a few may enjoy but as an opportunity for all. We believe that the lesson of history and of the troubled world today is clear. It demonstrates that men who own their own property have a greater stake in freedom and political responsibility than have the propertyless workers.
>
> "In a time of crisis - and who can guarantee that this country is now immune to crises - the owner of real

property has something to fall back on, to fight for, to defend. If necessary, he can stand before his door with a shotgun in his hand. Just where would a General Motors or an AT&T stockholder take his stand? Before a General Motors' salesroom, or a telephone pole? Or what piece of his employer's property would the landless worker give his life or his vote to defend? Democracy requires that the citizen have a personal stake in the material resources as well as the political ideals of his country.

"Opportunities for direct ownership of productive property are being sharply limited in this country. Increasingly, our economy is being characterized and dominated by large-scale industry and agriculture. There is serious reason to be concerned with the possibility that Genral Farms will join General Foods, General Electric, General Motors. The provision of the Excess Lands Law is one of the few obvious opportunities to check, and even to some degree to roll-back this trend.

"The National Catholic Rural Life Conference also holds that public policy should favor the family farm. This unswerving policy is not based on any blind nostalgic belief or any act of unfounded faith. It is based rather on firm conclusions from facts - facts which prove to any objective student that whether the criterion of value be political, social, religious, or even economic, the family farm is to be preferred to any other form of agricultural land holding.

"We see no reason, therefore, why public monies should be spent to subsidize the very antithesis of family farming."

Years and many bloody battles later a number of us representing national organizations which had long supported the reclamation laws and programs discovered in 1964 that the Interior Department was about to sign with California's Westlands Water District a contract which we became convinced would grossly violate both the spirit and the letter of the law. We called upon Congress to block that contract. At our request Senator Nelson, then as now responsive to the public interest, held a hearing on July 8 of that year at which a number of us testified. Since almost everything I said then is remarkably pertinent still today, I ask that it be made a part of the printed record of this hearing at this point.

You will remember, Senator Nelson, that a highlight of that statement was a figure of speech which pretty well laughed out of court one of the specious arguments of the Department of Interior and of the Westlands spokesmen.

The statement also indicates that by 1964 we had just about given up hope that Interior would ever administer reclamation law to the ends clearly and repeatedly laid down by Congress. I raised some pressing questions about the willingness or the ability of the then Secretary to enforce the law. In fact, I ended up by calling for his resignation. And that was in what, on other grounds, we considered to be a generally favorable administration.

At the opening of this statement, Mr. Chairman, I mentioned that I have a long memory. Well, I have been waiting eleven years for the proper opportunity to make the following observation.

One of the witnesses who testified at the 1964 hearing was Mr. Ralph Brody, then as well as now the chief counsel forthe Westlands Water District. As you may remember, Senator Nelson, Mr. Brody deplored what seemed to him to be the needless waste of time and money in having such hearings at all.

But Mr. Brody went much further than that. He made harsh, gratuitous, personal slurs against a number of us with whom he disagreed. Among other things, he charged us with "either deliberate deception or absolute ignorance" and said he resented "the distortion and apparently deliberate misrepresentation" which he felt characterized our statements.

Mr. Chairman, I wasn't worried then, nor am I now, that anything Mr. Brody could say might affect my reputation for responsibility and veracity. Still, as a matter of personal privilege, I request that no such intemperate outbursts by him be unchallenged in this or subsequent hearings, particularly since we seem to have to wait for ten years or more to have an opportunity to respond in the same forum.

Subsequent to the 1964 hearings, the aroused defenders of reclamation law and objectives kept up and intensified the pressure on the Interior Department until finally the offensive contract with Westlands was revised so as to eliminate its most objectionable features. Our forces were so pleased with our seeming success that I was moved to write an article about it, entitled, "The Water Poachers", which was published in America magazine. Because a number of knowledgeable people have judged the article to be a useful summary of an important episode in reclamation history, and because, moreover, I want to use it now to make a point, I make it part of my statement.

In the article I named some of the land barons who, through California reclamation projects, were ripping off the public treasury and destroying public policy. Among them was the Southern Pacific Railroad which then held - and still holds - an empire of some 120,000 irrigable acres in the Westlands Water District alone.

As I said earlier, Mr. Chairman, through the kind of presentation I am giving here it's possible to learn something about the people as well as the issues we have to deal with. It's already evident that the people are persistent. They also are tough and ingenious. And at least some of them are ruthless. Witness the following.

The ink was hardly dry on the *America* article before my Jesuit Provincial superior in California, the presidents of the three Jesuit Universities in California, and the Jesuit editor of *America* in New York all received outraged, offensive phone calls from the president of Southern Pacific, Mr. Don Russell. He angrily, imperiously demanded that I be forced to write a retraction and that I be forbidden to write or speak on the subject ever again. Or else. My Jesuit colleagues made no such attempt, so they got the "or else": the cutting off of some forty to fifty thousand dollars a year in regular Southern Pacific contributions to their institutions.

Nor was that all. For almost a year, Mr. Russell and subordinate S.P. officials shot off a barrage of irate letters to all involved, with a blizzard of carbons going in every direction. Mr. Russell even flew to Rome himself to complain and demand retribution at the highest level of the Jesuit order. No rebuff seemed able to stop him - until I threatened to write another article entitled: "Corporate Givers: The New Censors?" That finally stopped him, and I haven't heard a word since. I wonder what will happen now.

Though I've waited ten years to tell this story, I do it not simply to entertain but rather to instruct. More than any rhetoric, it tells us a great deal about the kind of people with whom we had to try to cope then and with whom we must try to cope now.

So we come to the present. After so many years and so many struggles, the same issue is still before us: the unrelenting effort of a handful of powerful, persevering and lordly land barons to pervert reclamation law and objectives, to channel the chief benefits of enormous public expenditures into their private purses.

From the earlier witnesses you have already heard the new ploys devised by Russell Giffen and others in Westlands to enrich themselves and to evade the intent of the law. I'm thoroughly cognizant with the testimony and feel I need not repeat the sordid facts here. What I can best and most appropriately present is a sense of moral outrage, what I believe any informed citizen with an unjaded conscience must feel in the face of such long-standing, unconscionable flanting of law and public policy, this iniquitous charade.

We don't have to wait until next Tuesday to know what Westlands' defenders will say. We know right now that they'll say that the law is being obeyed, that recordable contracts have been signed, that a beginning has been made toward legally disposing of the excess lands. In lieu of stronger language, I say bosh. Where are the family farms? Where are the new resident farmers and their families? Where are the new or revitalized rural communities? They're not there, and if Westlands gets its way they never will be there.

From long experience we know that the Westlands' spokesmen will throw sandstorms of purported facts in our faces. They'll present bizarre interpretations of legislative history and legal proceedings. They'll piously proclaim, as did Mr. Brody in 1964, that it is the furthest thing from their minds "to see large landowners reap unreasonable benefits and huge subsidies out of reclamation programs." Bosh! Where are the family farms? The resident farmers working their own land? When will they ever be there? We all know what the answer is: never.

Instead we're getting monstrosities like Jubil Farms, syndicated sales to absentee speculators, sales to other excess owners, tax-loss deals, self-financed sales to relatives, friends and former employees. In fact, the seemingly most fortunate excess owners are those who had the foresight to give birth to a large number of children. For them it works something like tax exemptions: a 160 acre deduction from excess lands for every child. That's not exactly what the framers of the reclamation law had in mind.

The Westlands' spokesmen say that the "family farm" has changed, that it's outmoded, that it's no longer viable in the irrigated areas of the West. They say that 320 acres, even with subsidized water, is too small for modern agribusiness. Again, I say bosh! Look at what Mr. Ballis' groups are doing on only a fraction of 320 acres. Look at the thousands of small holdings on the east side of the valley. And note the following: in 1964 the Interior Department's Special Task Force reported that "80-acre units of mature vineyards would yield a net farm income of $11,000 when grapes are marketed on the basis of 70 percent for table use and 30 percent for wine.... for 160-acre units . . . approximately $23,000." That's over ten years ago, and that's net income. Senator Nelson, wouldn't some of your struggling dairy farmers in Wisconsin settle for that right now?

Obviously the land barons and speculators couldn't have continued getting away with such gross distortion and violation of the law without compliant and cooperative government officials. Lest I be charged with making an unwarranted blanket indictment covering everyone indiscriminately, let me be more specific: for at least twenty-five years - the period during which I have been personally involved in this issue - no President of the United States, no Secretary of Interior, no Under or Assistant Secretary, no Solicitor or Assistant Solicitor, no Commissioner of Reclamation has made any serious, sustained, effective effort to enforce reclamation law. Like many another bureaucracy in this town, Interior has been and is a captive of the interests which benefit so bountifully from the Department's favorable interpretations, carefully overlooked loopholes, convenient oversight, and generally inept or inadequate enforcement of the law.

Interior officials, past and present, obviously won't like my saying that. But what other explanation can they give to the patent facts? Presumably they know the law. When they spend billions of taxpayers' money on these projects they must know what the end result is supposed to be. If there were a legitimate defense, it would be to point out the newly created family farms, residential farmers working their own land, revitalized rural communities. But they can't do that. They're not there.

"Where are the family farms in the long-completed Delano-Earlimart project? Were the Di Giorgio excess lands sales to family farmers? Are Pirelli-Minetti, Guimarra, Roberts Farms, White River Farms, Caratan, Zaninovich, any of them family farms? And what about the Imperial Valley, one of the earliest reclamation projects?

In Arizona there's the Salt River Project and the Central Arizona Project. Just a few days ago in the Congressional Record, Senator Goldwater, no less, boasted: "Through fiscal year 1974, the Federal Government has allocated $866,388,136 for reclamation projects in Arizona, and the total estimated Federal obligations for construction totals $2.1 billion in Arizona." How many family farms has that federal bonanza created, or will it create? What would taxpaying family farmers in Wisconsin, Colorado or South Dakota think about that, if they know?

How about also Auburn-Folsom South, another huge California project already under construction? What assurance do we credibly have that any new family farms will come out of that? As usual, none. The rich will get richer from the public treasury. What has the Department of Interior done to prevent that? Has it ever intended to prevent it?

While we continue to struggle with this same problem which has bedevilled us for so many years, for me at least there is a new element. Unlike my previous appearances before this committee, I appear here now representing a new constituency, the farm workers of the West. Never before has their voice been directly heard in these proceedings. Yet it is these farm workers who for generations have been grieviously exploited by these very same agribusiness moguls and their princely peers, the same workers who, if the reclamation program should ever work as the law clearly intends, would rightly be among the chief beneficiaries of this public policy and these public expenditures.

Who knows that land better than the workers who have broken their backs over it, who have measured it so painfully step by step, who have dragged wealth out of it for others while they themselves and their children scarcely get enough to eat? Their priority access to that land, their equity in it has been bought over and over again by their sweat, blood and tears. Who has a better claim to it if the land is to be made available to new settlers, new owners?

The farm workers are there, right there where the land is, and the federally subsidized water. They've done everything on that land except own it. They are among the most diligent, hard working people to be found anywhere, people who love the land with fierce devotion, who consider farming to be the most honorable of all occupations. They have a right. We, as a nation, have a solemn obligation to provide them the means to fulfill that right under the law.

Thus the following recommendations:

1) Since decades of either incompetence or collusion proves that the Bureau of Reclamation is incapable or unwilling to enforce the law, since it unquestionably is a captive of its voracious clients, since as an institution it is clearly irreformable and unredeemable, I urge that Congress abolish the Bureau. Let us start afresh without the crippling burdens of entrenched bureaucracy, cozy relationships and distorted priorities which now incapacitate the Bureau as an instrument of public policy. Ten years ago it seemed that it might be enough to get rid of a couple of administrators; today it is evident that that would be only cosmetic tinkering. What is imperative is radical surgery.

2) Let Congress create a new agency, perhaps an independent agency in the form of a public corporation. This agency would be authorized to contract with the Army Corps of Engineers or some other appropriate entity for the construction and maintenance of ongoing reclamation projects and facilities and of such future

projects as Congress should approve and fund. The agency, however, would be assigned and would retain all policy functions and responsibilities that now reside in the Bureau of Reclamation, i.e., the public purposes and objectives established in the 1902 Reclamation Act and repeatedly reaffirmed by the Congress and the courts.

3) For the purpose of fulfilling its policy objectives, to this agency would be appropriated and assigned a revolving fund. From this fund the agency would be authorized and required to purchase for resale or lease all excess lands in every reclamation project, extant or future. To this fund would be deposited all receipts received in the resale or lease of such lands. All sales or leases would be restricted exclusively and solely to authentic, residential, working farmers in units not larger nor totaling more than 160 acres. All purchases and sales or leases would be required to be based on pre-project prices.

4) In order to bring this ownership opportunity truly within the capacity of farm workers and other impecunious but capable people, the new agency should be authorized and required, either through its own programs or through arrangements with other appropriate agencies, to offer such specialized aids and services as may be required. Such aids and services could include credit on favorable or even subsidized terms and technical assistance particularly on the development of cooperative institutions.

Obviously, Mr. Chairman, this is only a sketch of a new approach. There are other ideas around, some of which have been embodied in drafts for proposed legislation. I could support any of them which would effectively replace the Bureau of Reclamation as the nation's instrument for fulfilling public policy or would at the very minimum eliminate the out-of-control subservience of the Bureau to the land-grabbers who for too long have fattened themselves at the public trough.

Still, I would prefer something along the lines I've suggested. The basic proposal to set up a revolving fund is not exactly a new idea. Substantially the same proposal generated a great deal of interest and discussion when it was circulated at the cabinet and sub-cabinet levels in the Johnson Administration. A version of that idea - as well as a number of other animadversions on the reclamation program - is contained in a letter I wrote to Secretary Udall in 1965, which I request be made part of the record at this point.

Partly as the result of that high-level discussion, the Interior Department actually drafted a legislative proposal on which, Mr. Chairman, you conducted hearings on July 29, 1966. As I recall, you indicated then that you were considering introducing the proposal as a bill, but for some reason - a good one, I'm sure - you didn't actually get around to it. I'd like to suggest that you resurrect it now, revise it as necessary and see to it that it is introduced.

There's one final point I'd like to make. The revolving fund idea could receive some opposition. Perhaps that possible resistance could be softened if it is recalled that a somewhat similar arrangement already exists in the wetlands (sic) acquisition program. Only a few days ago the House passed H.R. 5608 to extend that program, in existence since 1961, for seven more years and to increase the interest-free loan authorization by an additional $95 million. The bill set a goal for acquisition of 2.5 million acres, of which 1.9 million will have been acquired by next June. Up to this year $190,000,000 has been spent in the program. Where necessary, the power of eminent domain is exercised to acquire the land. Although the repayment date on the interest-free loans presently is 1977, it is expected that it will be extended for 6-10 more years and some think that most of the loans will never be repaid.

Mr. Chairman, I don't have to tell you that this program is for the benefit of waterfowl and hunters. In fact, a few days ago in the Record an enthusiastic Congressman said: "These lands are vital to the life of our migratory waterfowl...that need these lands to survive."

Good enough. I don't have anything against waterfowl or hunters but I would think that a nation that can afford to spend this kind of money for migratory waterfowl ought to be able to do at least that much for migratory farm workers who "need these lands to survive."

Father Vizzard. Thank you, Mr. Chairman.

I have some appendixes to my statement which are not before you at the moment because I did not have enough copies. You do have one appendix, namely an article that I wrote and was published in "America" magazine, which I ask to be incorporated into my statement at the appropriate place. You have that before you, I think, now.

The Chairman. It will be put in the record.[1]

Father Vizzard. The other two appendixes—this one here is appendix I which will appear on page 4; the second is appendix III which appears on page 13 of my statement.

I am going to start approximately in the middle of page 7.

From the earlier witnesses you have already heard the new ploys devised by Russell Giffen and others in Westlands to enrich themselves and to evade the intent of the law. I am thoroughly cognizant with the testimony and agree with it. I feel that I need not repeat the facts here. What I can best and most appropriately present, and what I would like to most appropriately do, is to present a sense of moral outrage, what I believe any informed citizen with an unjaded conscience must feel in the face of such long-standing, unconscionable flouting of the law and public policy, what has become, I believe, an iniquitous charade.

Instead of getting family farms, instead of getting people on the land, we are getting monstrosities like Jubil Farms and syndicated sales to absentee speculators, sales to other excess owners, tax-loss deals, self-financed sales to relatives, friends, and former employees. In fact, the seemingly most fortunate excess owners are those who had the foresight to give birth to a large number of children. For them it works something like tax exemptions—a 160-acre deduction from excess lands for every child. That is surely not exactly what the farmers of the reclamation law had in mind.

The Westlands' spokesmen, and indeed, the Interior Department and the Bureau of Reclamation, say that the family farm has changed that it is outmoded, that it is no longer viable in the irrigated areas of the West. Well, I say in lieu of stronger language, I say bosh. Look at what Mr. Ballis' groups are doing on only a very small fraction of the 160 acre, or more realistically the 320 acre limitation that is in effect. Look at the thousands of small holdings on the east side of the San Joaquin Valley. And, note the following: In 1964, the Interior Department's special task force reported that, "80-acre units of mature vineyards would yield a net farm income of $11,000 when grapes are marketed on the basis of 70 percent for table use and 30 percent for wine; for 160-acre units, approximately $23,000." That is over 10 years ago and that is net income.

Senator Nelson, would not some of your struggling dairy farmers in Wisconsin settle for that right now?

I do not think enough has been said yet today in this hearing about the collaboration, to put it in the most mild form I can, between the land barons and the speculators and the Department of Interior and the Bureau of Reclamation. Obviously these deals could not be possible without gross distortion and violation of the law by compliant and cooperative Government officials.

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

Lest I be charged with making an unwarranted blanket indictment covering everyone indiscriminately, let me be more specific. For at least 25 years—the period during which I have been personally involved in this issue—no President of the United States, no Secretary of the Interior, no Under or Assistant Secretary, no Solicitor or Assistant Solicitor, no Commissioner of Reclamation has made any serious, sustained, effective effort to enforce reclamation law. Like many another bureaucracy in this town, Interior has become and is a captive of the interests which benefit so bountifully from the Department's favorable interpretations, carefully overlooked loopholes, convenient oversight, and generally inept or inadequate enforcement of the law.

Interior officials, past and present, obviously will not like my saying that. But what other explanation can there be for the patent facts? Presumably they know the law. When they spend billions of taxpayers' money on these projects, they must know what the end results are supposed to be. If there were a legitimate defense, it would be to point out the newly created family farms, residential farmers working their own land, revitalized rural communities. But they cannot use that defense. The farms, the families are not there.

While we continue to struggle with this same problem which has bedevilled us for so many years, for me at least, there is one new element. Unlike my previous appearances before this committee, I appear here now representing a new constituency, the farm workers of the West.

Never before, as far as my knowledge goes, has their voice been directly heard in these proceedings. Yet it has been these farm workers who for generations have been grievously exploited by these very same agribusiness moguls and their princely peers, the same workers who, if the reclamation program should ever work as the law clearly intends, would rightly be among the chief beneficiaries of this public policy and these public expenditures.

Who knows that land better than the workers who have broken their backs over it, who have measured it so painfully step by step, who have dragged wealth out of it for others while they themselves and their children scarcely get enough to eat?

Their priority access to that land, their equity in it has been bought over and over again by their sweat, blood, and tears. Who has a better claim to it if the land is to be made available to new settlers, new owners?

I have some recommendations.

First, since decades of either incompetence or collusion proves that the Bureau of Reclamation is incapable or unwilling to enforce the law, and since it unquestionably is a captive of its voracious clients, and since as an institution it is clearly irreformable and unredeemable, I urge that Congress abolish the Bureau. Let us start afresh without the crippling burdens of entrenched bureaucracy, cozy relationships and distorted priorities which now incapacitate the Bureau as an instrument of public policy. Ten years ago it seemed that it might be enough to get rid of a couple of administrators; today it is evident that that would be only cosmetic tinkering. What is imperative is radical surgery.

Second, let Congress create a new agency, perhaps an independent agency in the form of a public corporation. This agency would be authorized to contract with the Army Corps of Engineers or some other appropriate entity for the construction and maintenance of ongoing reclamation projects and facilities and of such future projects as Congress may approve and fund. The agency, however, would be assigned and would retain all policy functions and responsibilities that now reside in the Bureau of Reclamation, that is, the public purposes and objectives established in the 1902 Reclamation Act and repeatedly reaffirmed by the Congress and the courts.

Third, for the purpose of fulfilling its policy objectives, to this agency would be appropriated and assigned a revolving fund. From this fund the agency would be authorized and required to purchase for resale or lease all excess lands in every reclamation project, extant or future. To this fund would be deposited all receipts received in the resale or lease of such lands. All sales or leases would be restricted exclusively and solely to authentic, residential, working farmers in units not larger nor totalling more than 160 acres. All purchases and sales or leases would be required to be based on pre-project prices.

The idea of the fund is nothing new. I remember your having hearings on it in 1966. You did not introduce the legislation then; I suggest that you do that now. It might require some revising. You might find a model in the Westlands Acquisition Act, which was given large funding to purchase land for the well-being migratory waterfowl. I have nothing against waterfowl or hunters. I had better not—in the presence of a hunter. But, I suggest that if the Nation can do it for migratory waterfowl, it can do it for migratory farmworkers.

I thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Father Vizzard. We appreciate your taking the time to come and present your testimony today. We appreciate your long-term interest in this very important matter.

Our next witness is Mr. Jerome Waldie, representing Friends of the Earth.

Is Mr. Waldie here?

Mr. Nomellini, I understand, is present in the room. He is one of the attorneys for the Central Delta Water Agency. He notified us that he is in town on other business and he became aware of these hearings and has asked to appear for a few moments.

Is Mr. Nomellini here?

Would you identify yourself and who you represent for the reporter?

STATEMENT OF DANTE JOHN NOMELLINI, COUNSEL FOR THE CENTRAL DELTA WATER AGENCY

Mr. NOMELLINI. Thank you, Mr. Chairman and members of the committee.

My name is Dante John Nomellini. I am an attorney. My offices are at 235 East Webber Avenue, Stockton, Calif.

I appear before you today as the attorney for the Central Delta Water Agency, which consists of about 100,000 acres in the Sacramento-San Joaquin Delta region of California.

I apologize for not being aware of the hearing prior to my trip to Washington. I was here on other business and I received a call from another representative of a district in my area stating that these hearing were underway, and that the Westlands contract, that is the amendment to the original contract, was under consideration and would take effect by the end of the month if the Congress or the Senate did not reject the contract.

Now, this came to me as a very alarming bit of information because of the significance of the contract itself. The contract involves over 1 million acre-feet of water, and it is the water aspect of the contract and the language pertaining thereto that are of interest to our district.

California, as you may or may not know, is in serious trouble from a water management standpoint. The supply of firm yield water appears to be adequate to meet the commitments that already exist on the part of both the State and the Bureau of Reclamation.

We feel that because the State of California is now undertaking a complete review of the water situation in the State of California, and the Bureau itself is undertaking and is in the process of completing a study on water management in the State of California, that it would be extremely inappropriate to allow this contract to take effect without having an adequate notice to the people in California and additional hearings to bring in the interest of the various water people and others as well on this subject.

This appears to be and could be an attempt to slip through a major water decision prior to the revelation of the results of the ongoing studies; and, I think if that were to occur, that it would be unfortunate for both the United States and the State of California. The State and the United States are in a dispute as to jurisdiction in California, and the question of whether or not the Bureau of Reclamation is required to submit to the jurisdiction of the State water resources control board for water permits is in court. I find this whole scheme not to sit well with my sense of justice and what should be done.

I would ask that you people reject or keep this contract in a position where it can be rejected by you until such time as further hearings are held and you can get into the water aspects of the contract itself.

Thank you very much.

The CHAIRMAN. You are representing the Central Delta Water Agency?

Mr. NOMELLINI Yes, sir.

The CHAIRMAN. And the 100,000 acres that are involved in that agency, are they receiving project water now?

Mr. NOMELLINI. No, sir.

The CHAIRMAN. Will they be—is it anticipated that they will receive project water?

Mr. NOMELLINI. I would like to explain the situation.

Our district is in the delta, which is the hub for water conveyance in the State of California. It is part of the San Francisco Bay Delta Estuarian System. There is a contention in our area that the Bureau of Reclamation, through the Central Valley project, has the obligation to repulse salinity.

Now, to the extent that there may be a benefit from the repulsion of salinity, our district and the people in our district would, in a sense, be recipients of project benefits from the Central Valley project. Both the State project and the Central Valley project run their waters through the delta to the pumping plants. In this sense we are involved.

We are involved in a negotiation with the Bureau of Reclamation to settle this longstanding dispute, and although we are in the preliminary stages, we are hopeful that it will result in a contractual settlement, so to speak, of many of the issues that exist in this area.

So, to that extent, we are prospective contract participants with the Bureau of Reclamation.

Senator HASKELL. You have nothing to do with Westlands?

Mr. NOMELLINI. That is correct.

Senator HASKELL. Do you have the same problem with your district—the 160-acre limitation we are talking about?

Mr. NOMELLINI. No, sir.

Senator HASKELL. You have a completely separate prospective contractual arrangement with the Bureau of Reclamation than what we have been talking about all morning. Is that right?

Mr. NOMELLINI. We do not have any contractual arrangement with the Bureau of Reclamation at all. We have a situation where the operation of the Central Valley project determines in many respects the water quality that exists in our area, and we are there with vested water rights that are subject to being encroached upon, depending on the releases that are made and how much is pumped. So, we are in an area where we have no contract with the Bureau of Reclamation, but we are definitely affected by project operations.

None of our lands are subjected to the excess land laws because there are no contracts with the Federal Government.

The CHAIRMAN. There are no contracts with the Federal Government at all, is that right?

Mr. NOMELLINI. That is correct.

The CHAIRMAN. You refer to salinity which years ago was becoming a problem in the Central Valley, too, because of the pumping out of the aquifer. Is that the problem?

Mr. NOMELLINI. Our underground water has always been saline. The problem that we have is with ocean water intrusion. That is our primary concern with regard to the operation of the project.

We, in addition, because we are at the delta and receive the drainage water of the San Joaquin, are also concerned about the quality of drainage which does come from the valley, which of course, results from additional deliveries to this area.

However, we are primarily concerned with the fact that an additional commitment of a tremendous amount of water; this 1 million acre-feet is very significant. The total State water project involves 4¼ million. So, this is a big commitment, and we are concerned that this commitment is being made without adhering to appropriate procedure. There should be a wait and see attitude until the State study which was instituted by the present administration is completed and the outcome of the ongoing Bureau study is known. This information would appear to me to be necessary to reach a proper conclusion as to whether or not this type of commitment should be made.

The CHAIRMAN. Thank you very much.

The hearing will resume on Tuesday next at 9:30 in the morning, in room 1114.

[Whereupon, at 12 p.m., the committees recessed, to reconvene on Tuesday, July 22, 1975, at 9:30 a.m., in room 1114, Dirksen Senate Office Building.]

WILL THE FAMILY FARM SURVIVE IN AMERICA?: FEDERAL RECLAMATION POLICY (WESTLANDS WATER DISTRICT)

TUESDAY, JULY 22, 1975

U.S. Senate,
Select Committee on Small Business and
Committee on Interior and Insular Affairs,
Washington, D.C.

The committees met, pursuant to notice, at 9:40 a.m., in room 1114, Dirksen Senate Office Building, Senator Gaylord Nelson (chairman) presiding.

Present: Senators Nelson, Haskell, and Laxalt.

Also present: William B. Cherkasky, staff director; Raymond D. Watts, general counsel; James S. Medill, counsel; Mary V. Conway, staff assistant; Gary Bickell, staff economist; and Bill Grant, assistant to Senator Brock.

The Chairman. The joint hearings of the Interior Committee and the Senate Select Committee on Small Business will resume.

We have a number of witnesses today. Both committees have received a number of communications concerning these areas which I shall insert into the record at this or in other appropriate points; one of them a letter dated July 17, 1975, from Gov. Edmund G. Brown, Jr., of California. He requests that these hearings on the Westlands contract and the Westlands Water District be continued in California and that these two committees ask the Bureau of Reclamation to defer final action on the proposed contract. We had already made a decision to make that request prior to receiving the letter from Governor Brown.[1]

Our first witness is Congressman George Miller, who is a Representative of the Seventh District of California. Congressman Miller, we are very pleased to have you here this morning. Do you have a prepared statement?

STATEMENT OF HON. GEORGE MILLER, A REPRESENTATIVE IN CONGRESS FROM THE SEVENTH CONGRESSIONAL DISTRICT OF THE STATE OF CALIFORNIA

Representative Miller. I have a prepared statement in the form of a letter which I would like to submit to the committee, Mr. Chairman. I will just take a few minutes. My request to appear here came after the schedule was made up and I apprepricate the committee making this time available. I would just like to expand on a couple of points.

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

The CHAIRMAN. Go ahead. Your letter will be printed in the record.

[The prepared statement of Representative Miller follows:]

GEORGE MILLER
7TH DISTRICT, CALIFORNIA

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EDUCATION AND LABOR

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS

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July 17, 1975

Honorable Gaylord Nelson
Chairman
U.S. Senate Select Committee on
Small Business
424 Russell Senate Office Building
Washington, D.C.

STATEMENT OF CONGRESSMAN GEORGE MILLER OF CALIFORNIA
BEFORE THE SENATE SELECT COMMITTEE ON SMALL BUSINESS

The Westlands Water District Amendatory contract with the U.S. Bureau of Reclamation, which is an issue before this committee, calls for a large increase in the volume of water to be withdrawn from the Sacramento-San Joquin Delta. Such a development could have a potentially disastrous environmental quality impact on the district which I represent in the House, and is of major concern to my constituents.

I believe there are three principal questions that need to be examined:

1.) Is the price of water to be sold to the Westlands Water District under the terms of the Amendatory contract an equitable one?

2.) What adverse effects, if any, will there be on the Delta area under the terms of the contract?

3.) How is the 160-acre limitation as defined in Federal Reclamation law affected by the proposed contract?

A brief outline of these concerns may be helpful in illuminating those areas needing clarification.

First, it has been contended that the price for water to be sold to Westlands is too low. This assertion may have some validity in light of the fact that state water project prices in the same area are currently twice as high as the price quoted in the Westlands contract. This possible problem may be further compounded by the fact that the Westlands contract water rate is fixed for more than 30 years. There is some question as to whether or not an inflationary regulator should be included in the contract to alleviate any potential future windfall profits. The issue of water pricing goes to the very heart of many of the controversies surrounding water usage. If it is true that the water rate is too low, the implications are widespread and serious. For example, if the water rate is in fact too low, it may very possibly encourage the use of excessive amounts of water, thus consuming unnecessarily large amounts of energy and water. In addition, it has been recognized by law that the Bureau must furnish water to the farmers at a price which they can afford. However, the last examination of the farmer's ability to pay was completed over a decade ago. An update on this outdated study would seem to be a prudent action.

The problems associated with the large volume of water required in the Westlands contract manifest themselves in other related areas. One easily observed instance of this chain reaction can be found in the drainage problems of the San Joaquin Valley. With increased amounts of water going to Westlands, what will be done with the growing volume of drainage water? The problems of waste water disposal will be inevitably worsened with the growing volume of water shipped out of the Delta. There are numerous environmental considerations involved with these drainage problems that, to date, the Bureau of Reclamation has not adequately answered.

Secondly, there are not only drainage, but water quality control efforts which may be significantly hampered by the Bureau's efforts to fulfill the obligations of the Westlands contract. To emphasize these difficulties in maintaining water quality standards in the Delta, it has been brought to my attention that the Bureau has not yet agreed to comply with federal or state Delta water quality standards which, under drought conditions, would limit the amount of water which could be withdrawn from the Delta. Of course, this does not necessarily mean that the Bureau would not comply with those water quality standards. But, I believe that in a matter of such vital importance, clarification of the Bureau's intentions and responsibilities is necessary.

Finally, several questions have arisen with respect to compliance with the 160-acre limitation as required by federal reclamation law. This acreage limitation may be outdated, and no longer relevant to today's social or economic realities.

However, Congress has not amended the

original federal reclamation law with respect to the acreage limitation. Therefore, the fact that the contract allows excess landowners to sell their lands to other excess landowners raises some doubt as to the legality to this provision. If the water will, indeed, be sold illegally it may hasten the demise of the small farmer. Although this may not necessarily be the case, I believe these questions merit considerable in-depth anaylsis.

I have been working for the past 45 days trying to determine the factual situation surrounding the Westlands Water District contract. This has been a very difficult task to accomplish. I believe it is crucial that prompt answers be obtained to the questions I have raised today about the nature of the Westlands contract. This Small Business Committee of the Senate, by holding today's hearings, is helping to examine some of the points I have mentioned. In order to fully review the Westlands contract, I have requested the chairman of the House Subcommittee on Water and Power Resources to convene hearings at the earliest possible date. It is my hope that these hearings will be held promptly and that they will lead to a reevaluation and revision of the terms of the Westlands contract.

I would like to conclude by thanking the members of this committee for considering my statement.

Representative **Miller**. Thank you. As you have mentioned, you are in receipt of a letter from the Governor of my State, in which he asks that you request the Bureau to withhold final action until such time as this committee has had time to take a look at the Westlands Water District contract, and until you hold hearings in the field in California. I think both of those requests are very reasonable.

I have spent the last 45 to 50 days trying to determine from various agencies what the impact of the Westlands contract would be on the area which I represent, and the surrounding areas. As you may know, the District which I represent borders on the San Joaquin-Sacramento Delta, which would be the area of origin for this water.

This contract contemplates taking a little over a million acre-feet of water annually out of the delta and shipping it to the central valley. Our concern is multiple. This is a long-term contract that would commit a sizable proportion to that area, while, at the same time, both the State and the Federal Government are undergoing a reevaluation of total water management. Our concern regards the final decision on the San Luis Drain, which would be required to bring much of the drainage wastewater back into the San Francisco Delta region. That water has to be removed from that area to prevent further degradation of the delta.

So, what you have is a situation where you are going to be taking good water out of the delta, out of a system that requires an annual outflow for repulsion of salinity, and you are going to be coming back with wastewater. I think it is just very clear on the face that you are talking about degrading the full water system.

Also, I think that the price of the water which is to be taken under this contract has got to be given full evaluation by this Congress. As late as 1973 the Bureau of Reclamation, in its appraisal of total water management, cites that the pricing arrangements for this water have not undergone reevaluation for some 25 years; in fact, the price of water may be a very insignificant cost to the farmer in doing business, and I think that it is an obligation that we have to the taxpayers to make sure that, in fact, the Government is getting a reasonable return for the sale of those resources.

Finally, I think that we need a great deal of clarification under the contract as to exactly to what use this water is going to be put and how consistent that use is with existing Federal law. You had a great amount of testimony the other day on the excess land laws, and I think that there is sufficient testimony there to have this committee continue in that investigation.

The excess lands provision is a section of the law that has come under much criticism, innuendo and challenge in the past, and I think that it is time that we reopen that whole area for investigation.

But, my concern is, to a great extent, that we have a contract for the delivery of water. Many people would like to see that contract considered in a vacuum, but you simply cannot. You are dealing with one of the prime agricultural areas in the world, the San Joaquin-Sacramento Delta. If the water standards are not maintained in that delta, if salinity is allowed to intrude into the delta in those dry years, up to 65,000 acres would almost immediately be taken out of production. This is an area that has yielded many millions in agricultural production in the last few years, and I think that it is very important that it be preserved. As you know, in water law there is strong deference given to the areas of origin, and I think that we have got to be concerned that we do not simply degrade one area for the benefit of another. We must work on an overall policy. My major concern with the San Luis Drain is that the determination has not been made, where the drain will enter into the San Francisco estuary system, whether it will be at Antioch, which is in my district, whether it will go all the way to the Pacific Ocean, where it will seem to have the least amount of effect.

I have great concern that in this contract, the San Luis Drain, and other contracts and projects calling upon the delta to supply water, there is no indication that the Bureau is prepared to operate in compliance with either Federal or State water quality standards. This matter is being adjudicated in the courts right now, and I think it is also something that this committee will have to take a look at.

The State of California is one of the leaders in setting water quality standards. It has taken the San Francisco system and brought it back to where it was 30–35 years ago in terms of quality. You now have people from the University of California telling us that once again you can probably commercially grow oysters and other sea products in San Francisco Bay. If we stop the outflow of fresh water into that system, we are going to go back to the old ways.

We have made massive efforts to reclaim wastewater, to clean up municipalities, governmental installations, pollution, and so forth. If you just take the contract and say that you can take this million acre-feet of water, you can tie it up for over 40 years. I think that would be a very detrimental mistake to the people in the delta.

What I am hoping by expressing these concerns this morning in a rather brief fashion is to give the committee further evidence that it should, as the Governor has requested, conduct hearings out in the area, if for no other reason than to see the geography of the area and to see the interrelationships of the central valley, the projects concerned, and the delta. It is a fight that, you may know, has gone on in California for a number of years, and it is one that, with the new administration in Sacramento, we now have a little time for breathing and reexamination. We are trying to assess how to develop a full water management program, how to make sure we protect the environment, and to develop carefully all uses of the delta, which is one of the greatest recreational areas in the country. How do we protect industrial complexes that are there, and how do we protect the farmer who is there, while at the same time meeting legitimate commitments in the central valley and in the center part of our State?

It has been a long fight. I use the term fight because it has been bitter over the years. I think now the temperatures have been considerably lowered, and I think that hearings such as you will conduct will help lower that temperature. Those hearings will finally give a forum to all parties to come together—those who are suspect of this contract or the 160-acre limitation, those with environmental questions, and others. I think that you have quite properly provided a forum for this discussion.

I am hoping also to prevail upon my committee chairman, Biz Johnson, to hold similar hearings in our Subcommittee on Water and Power of the Interior Committee. He has indicated in a letter to me yesterday that he thinks that that would be a proper subject for the committee to undertake. Because this contract does contemplate a further authorization of some projects it would be very helpful to have a forum there later in the year. I would hope that you would give very serious consideration to the letter by the Governor because I think it makes an awful lot of sense and will help resolve many of the questions that have been hanging around California water problems for a number of years.

So, with that I would like to conclude my testimony and, again, thank the committee for allowing me to testify. As I said, I know that my request came late.

The CHAIRMAN. Thank you very much for taking time to come over this morning. As I said in my opening remarks, we had already concluded that we would ask the Commissioner of Reclamation to withhold final implementation of the contract until we have had an adequate opportunity to conduct and complete our hearings, and we will make such a request.

Did you have any questions, Senator Haskell?

Senator HASKELL. I have no questions, Mr. Chairman. Thank you, Congressman Miller.

Representative MILLER. With the permission of the committee I would like, if the record is going to remain open during the series of hearings, to be able to submit from time to time further documentation of the positions that I so briefly outlined before the committee this morning, if that is possible.

The CHAIRMAN. The hearing record will remain open for quite some time, so you may submit it any material you may wish.

Representative MILLER. Thank you very much.

The CHAIRMAN. Our next witness is the Honorable Gilbert G. Stamm, Commissioner of Reclamation of the U.S. Depuartment of the Interior.

STATEMENT OF HON. GILBERT G. STAMM, COMMISSIONER OF RECLAMATION, U.S. DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY FOREST COLEMAN, EXCESS LAND OFFICER, FRESNO, CALIF.; RICHARD DAUBER, ASSISTANT REGIONAL SOLICITOR, SACRAMENTO, CALIF.; AND HUGH GARNER, ASSOCIATE SOLICITOR, ENERGY AND RESOURCES, WASHINGTON, D.C.

Mr. STAMM. Mr. Chairman, I would like to have with me at the table some other people from the Department of the Interior.

The CHAIRMAN. If you would identify them for the reporter we will have their names for the record.

Mr. STAMM. The gentleman on my left is Mr. Hugh Garner, Associate Solicitor for Energy and Resources; on my right is Richard Dauber, he is assistant regional solicitor from Sacramento, Calif.; and on his right is Forest Coleman, head of the excess land and repayment section in our Fresno Field Division in California.

The CHAIRMAN. The committee appreciates having you here this morning, along with your associates, and you may proceed to present your testimony however you desire.

Mr. STAMM. Mr. Chairman, I am pleased to be here and to have this opportunity to meet with the joint committees and to provide you with a résumé of the guidelines under which the Bureau of Reclamation administers the increasingly complex land-ownership situations which presently characterize the implementation of the acreage limitations under Reclamation Law. It is also gratifying to be able to report to you the accomplishments that are evident in the discharge of our responsibilities under the law as they relate specifically to the Westlands water district in California.

The June 27, 1975 "Congressional Record" notice of these hearings indicated that the principal questions for consideration center around the impact of Federal policies on family farms and the institution of family farming with special attention to the possible impact of the Westlands water district on these matters.

Obviously, the term "Federal policies" covers a broad range of widely varying, though interrelated, subjects. Traditionally, the reclamation program has involved two major aspects which have had an impact on the subject.

First is the reclamation settlement program which over the years has been instrumental in providing opportunities for many settlers to enter irrigable public lands on numerous projects through reclamation and homestead law. Even in the post-World War II years, this program accounted for nearly 2,900 new public land, irrigated farms. However, public land settlement opportunities have now, for the most part, been exhausted.

With the phasing out of public land settlement programs, most present day projects involve either full or supplemental irrigation water supplies to privately owned lands.

It is because of preproject, private ownership of lands that the acreage limitation provisions of reclamation law become of major concern. This situation is applicable to all of the Central Valley project and especially the Westlands Water District.

Before discussing the various aspects of acreage limitation, especially as they relate to the Westlands Water District, it should be noted that reclamation law, over the years, has been subject to an evolutionary process of statutory and legal interpretation. In 22 separate cases the law has been modified or waived in its application.

In 1964, the Senate Interior and Insular Affairs Committee published a committee print entitled "Acreage Limitation Policy Study." That document, prepared by the Department of the Interior at the request of the committee, discussed in detail the sequential evolution of the acreage limitation concept from its inception in the Reclamation Act of June 17, 1902, through the 1962–63 period, and the many legal opinions, policies, and administrative enunciations issued thereunder.

Because of the comprehensive discussion of acreage limitations as presented in the policy study, I will not take time to reiterate that material, except to say that since May 25, 1926, when the Omnibus Adjustment Act became law, section 46 of that act has provided the basis for present-day acreage limitation administration.

Section 46 of that act, in substance, provides that no project water is to be delivered until the Secretary has a repayment contract with a water district, and further that no project water is to be furnished to the land of any one owner for an area in excess of 160 irrigable acres unless that owner enters into a recordable contract under which he agrees to sell the excess land upon terms and conditions satisfactory to the Secretary of the Interior and at prices not to exceed those fixed by the Secretary.

The procedures developed over the years to carry out the provisions of section 46 fundamentally require conformance to certain controlling conditions. First, it must be demonstrated that any transfer of title to the lands receiving or capable of receiving project water is, in fact, either a bona fide sale or an otherwise acceptable disposition under which the former owner or owners relinquish all right, title, and interest in and to the land. Second, the party or parties acquiring the land must be eligible to take title to the land as nonexcess landowners. Third, if the lands being disposed of are excess lands, it must be conclusively demonstrated that the sale price involved does not reflect value enhancement attributable to the project. Additionally, where excess lands are to be placed under recordable contract as a prerequisite to their eligibility to receive project water, the description of the lands must be proper and accurate, and it must be clearly established that the party or parties executing the document are, in fact, the legal owners.

Before discussing the actual implementation of the recordable contracting program, it should be emphasized that any individual landowner within the water service or repayment contract service area, without regard to his total landholdings, is entitled to receive project water for 160 acres of land, referred to as his nonexcess entitlement. The fundamental requirement is that the nonexcess tract must be owned by a person or persons, private or corporate, individually or severally, who either do not own other irrigable land within the water district's service area, or, if other irrigable land is owned, the owner may designate the land to comprise his nonexcess acreage, which then may receive project water, but no project water can be used on the excess remainder.

Having established a tract as nonexcess, it may thereafter be sold without price approval provided the purchaser is eligible to take title as nonexcess land. If the vendor holds excess land and wishes to redesignate another 160 acres as nonexcess in lieu of the previously designated tract sold, he must sell or have sold the previously designated nonexcess tract at a price fixed or approved by the Secretary.

There are two special situations in which formerly nonexcess lands may become excess and may continue to receive project water. First, under the act of July 11, 1956, lands which become excess through inheritance, foreclosure, et cetera, may receive project water for 5 years. During that 5-year period, the land may be sold without price control to an otherwise eligible purchaser.

In the second situation, formerly nonexcess lands owned by husband and wife which become excess in the ownership of the surviving spouse may, under the act of September 2, 1960, continue to receive project water until such time as the surviving spouse might remarry. Thereafter, the basic eligibility requirements of law prevail.

Looking now to the matter of excess land eligibility and its subsequent disposition to nonexcess status, a major area of complexity is evident. Under the terms of the recordable contract, the excess landowner agrees to sell the excess land within a certain period as prescribed in the recordable contract. A 10-year period is currently used. The sale price, as fixed by the Secretary, may not exceed the fair market value of the land at the date of appraisal excluding any value attributable to the project.

The seller may also recover the fair market value of improvements on the land. The recordable contract provides that the land will be sold only to a person or persons who can take title to the land as a nonexcess owner or owners. Should disposition not be made within the 10-year period, power of attorney, exclusive and irrevocable, then vests in the Secretary of the Interior to make the disposition for and on behalf of the excess landowners.

At no time, however, does title to the property pass to the United States. Furthermore, during the 10-year disposition period allowed the landowner, the United States exercises no control over the landowner's choice of a purchaser. Our authority is limited to the determination that: A, a bona fide sale or transfer is involved; B, the prospective purchaser is eligible to take title to the land as nonexcess; and, C, that the price involved in the transaction does not reflect project benefits.

In making the foregoing determinations, our technical staff members, at all involved levels, as well as the reviewing attorneys on the Solicitor's staff, must rely largely on the veracity of the transaction documents which are attested to by the parties involved. Nevertheless, confirmation of the factors involved in the sale is sought through various means to ascertain and analyze every available detail of the sale especially as it relates to such elements as sale price, financing, and the eligibility of the purchaser to take title to the land as nonexcess. Regrettably, it appears that in any field of activity (economic, political, or otherwise), there are always a few who unscrupulously attempt to take illegal or unfair advantage. Others simply try to take full advantage of what the law permits. We do not condone the former, and we conscientiously attempt, through our surveillance program, to sort out the legal from the illegal transactions.

Even after the power of attorney vests in the Secretary, and the Secretary has exclusive disposition authority, our latitude for action is not significantly expanded. The land must still be disposed of under the same conditions which prevailed during the intial 10-year period except that the Secretary will make the disposition for the landowner. The principal problem in any event may be ability to locate prospective purchasers who qualify as to ownership and who have the financial ability to make the purchase.

With that explanation of the basic recordable contract provisions and corresponding disposition procedures, it is important to note the various patterns of landownership, other than acquisition of a specific tract by an individual, under which eligible nonexcess landholdings may legally be established.

One of the more common situations is the joint tenancy holding usually involving acquisition of land by a husband and wife.

Assuming the husband and wife team purchased land that was excess in the previous ownership, they would be deemed eligible nonexcess owners of the lands purchased if the purchase was at an approved price, and if the purchased land, together with any other irrigable land they might own within the district, did not total more than 320 irrigable acres.

Another pattern of ownership which has become quite prevalent in recent years involves the sale or transfer of lands to a trust. Trusts must meet a number of conditions to be acceptable. To enumerate a few, the grantor must totally relinquish control of the land involved and place it under an irrevocable trust. The beneficiary or beneficiaries of the trust must be identified and their respective interests shown. The trustee may receive no beneficial interest from the trust property. Each beneficiary or the guardian of a beneficiary must have the right, at his option, to partition the beneficiary's interest in the trust. A trustee must be someone unrelated to both the former owner of the property and the beneficiary of the proposed trust.

Other variations of nonexcess landholdings include tenancies in common and partnerships. In each such case, we have developed criteria which must be met for excess lands to qualify for project water.

In recent years, we have found it necessary to apply progressively more stringent requirements. They will not affect the validity of earlier approvals where bona fide efforts were made to conform with the then prevailing criteria. If, however, such arrangements are altered by subsequent modifications, the multiple ownership will then be required to conform to the presently effective criteria.

Finally, there is the matter of sale or transfer to a corporation. Three fundamental rules apply. First, no corporation may hold more than 160 acres as nonexcess land. Second, and most frequently, in the case of closely held family corporations, the corporate form can be disregarded and the land held in corporate ownership may then be viewed as if held by its stockholders, to determine whether any stockholder, as a beneficial owner of a prorated share of the corporate landholding, is holding in excess of 160 acres. Third, the corporation, or corporations, are not to be established with a primary purpose of avoiding the application of acreage limitations.

I have taken this opportunity to explain briefly the various ramifications of our continuing efforts to ascertain that the disposition of excess lands to purchasers, over whom, as I previously noted, we have no selective authority, are in fact bona fide transactions to an individual or individuals who acquire true beneficial ownership of the lands involved. In this same regard, I would emphasize that in recent years, from say the early 1960's on, there has been a progressive escalation in agricultural land values. Coupled with escalation has been the constantly increasing interest in what may generally be termed "agricultural investment plans." In such plans, the primary objective has appeared to be to promote speculation in agricultural properties. We have been continuously alert to those trends and have applied stringent criteria designed to obtain compliance with the letter and intent of the law.

Now, I would like to point out the actual results of our efforts, especially in the Westlands Water District.

When we initially entered into a water service contract with the district, on June 5, 1963, there were 248,686 acres of excess land out of a total of 352,276 irrigable acres within the district. Subsequent to that contract, the adjacent Westplains Water District was merged with the Westlands Water District. As stated in our july 28, 1966, letter to the committee, the irrigable acreage of the Westlands Water District thus increased to approximately 535,600 acres with a corresponding expansion of excess land to a total of 401,133 acres.

As construction of the distribution system progressed, and project water became available to an ever-increasing acreage, excess landowners have placed their excess land under recordable contracts.

Our most recent annual landownership report for the district shows, as of December 31, 1974, that 243,284 acres of excess land were eligible to receive project water. When that acreage is considered along with the 243,193 acres of nonexcess land, it shows that 85 percent of the reported 572,000 acres of district lands are eligible under reclamation law to receive project water.

This growth in eligibility of land to receive project water is graphically illustrated by the two maps which have been provided you. As you will note, one map shows that in 1967 only 129,000 acres were eligible to receive project water. By contrast, the other map, dated February 1975, shows a vast change. Large landowners have accepted the recordable contracting program and numerous dispositions of excess land to eligible nonexcess status have occurred.

Over the years, a total of slightly over 343,000 acres of district excess land have been placed under recordable contract. Large ownerships are being broken up. For example, 81,600 acres under recordable contract have been disposed of pursuant to law and the recordable contracts have been terminated; 19,980 acres under current recordable contract have been disposed of to eligible owners; 34,180 acres never under recordable contract have been disposed of to eligible owners. These figures total 135,760 acres. Of excess land not yet disposed of, 241,925 acres are under recordable contract and will be disposed of either by the landowners or by the Secretary of the Interior.

A review of our field program for compliance inspections in the Westlands Water District may be of interest to you. We constantly maintain a program of water use surveillance. As the use of project water has increased, that program has been intensified. During the period from 1968 to 1975, field compliance technicians have spent an average of 24 man-days per season in the field, in the course of which an average of 387 separate compliance checks have been made each season. Those checks have brought to light an average of 14 violations per season, ranging from a high of 30 to as few as 2 or 3. Notwithstanding the increase in project water use, the violations per season have in recent years been significantly reduced. Of further significance is the fact that each violation found has been corrected within 24 hours, either through the execution of a recordable contract or by termination of water delivery.

In summary, the acreage limitations of reclamation law, though somewhat general, are designed to break up large ownerships if such lands are to obtain project water. Our procedures for implementation of the law are designed to accomplish that end. Our records indicate significant progress in meeting the letter and intent of the law. Whenever the Congress modified our statutory authorities and obligations in this or any other field, I assure you we have the willingness, flexibility, and capability to conform.

[The prepared statement of Mr. Stamm follows:]

STATEMENT OF COMMISSIONER OF RECLAMATION GILBERT G. STAMM AT THE JULY 22, 1975, JOINT HEARING BEFORE THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS AND THE SENATE SELECT COMMITTEE ON SMALL BUSINESS

I am pleased to have this opportunity to meet with the joint committees and provide you with a resume of the guidelines under which the Bureau of Reclamation administers the increasingly complex landownership situations which presently characterize implementation of the acreage limitations under Reclamation law. It is also gratifying to be able to report to you the accomplishments that are evident in the discharge of our responsibilities under the law as they relate specifically to the Westlands Water District in California.

The June 27, 1975, Congressional Record notice of these hearings indicated that the principal questions for consideration center around the impact of Federal policies on family farms and the institution of family farming with special attention to the possible impact of the Westlands Water District on these matters.

Obviously, the term "Federal policies" covers a broad range of widely varying though interrelated subjects. Traditionally, the Reclamation program has involved two major aspects which have had an impact on the subject.

First is the Reclamation settlement program which, over the years, has been instrumental in providing opportunities for many settlers to enter irrigable public lands on numerous projects through Reclamation and homestead law. Even in the post World War II years, this program accounted for nearly 2,900 new public land, irrigated farms. However, public land settlement opportunities have now, for the most part, been exhausted.

With the phasing out of public land settlement programs, most present day projects involve either full or supplemental irrigation water supplies to privately owned lands.

It is because of pre-project, private ownership of lands that the acreage limitation provisions of Reclamation law become of major concern. This situation is applicable to all of the Central Valley Project and especially the Westlands Water District.

Before discussing the various aspects of acreage limitation, especially as they relate to the Westlands Water District, it should be noted that Reclamation law, over the years, has been subject to an evolutionary process of statutory and legal interpretation. In 2[illegible] separate cases the law has been modified or waived in its application.

In 1964, the Senate Interior and Insular Affairs Committee published a committee print entitled "Acreage Limitation Policy Study." That document, prepared by the Department of the Interior at the request of the committee, discussed in detail the sequential evolution of the acreage limitation concept from its inception in the Reclamation Act of June 17, 1902, through the 1962-63 period, and the many legal opinions, policies, and administrative enunciations issued thereunder.

Because of the comprehensive discussion of acreage limitations as presented in the Policy Study, I will not take time to reiterate that material, except to say that since May 25, 1926, when the Omnibus Adjustment Act became law, section 46 of that act has provided the basis for present-day acreage limitation administration.

Section 46 of that act, in substance, provides that no project water is to be delivered until the Secretary has a repayment contract with a water district, and further that no project water is to be furnished to the land of any one owner for an area in excess of 160 irrigable acres unless that owner enters into a recordable contract under which he agrees to sell the excess land upon terms and conditions satisfactory to the Secretary of the Interior and at prices not to exceed those fixed by the Secretary.

The procedures developed over the years to carry out the provisions of section 46 fundamentally require conformance to certain controlling conditions. *First*, it must be demonstrated that any transfer of title to the lands receiving or capable of receiving project water is, in fact, either a bona fide sale or an otherwise acceptable disposition under which the former owner or owners relinquish all right, title, and interest in and to the land. *Second*, the party or parties acquiring the land must be eligible to take title to the land as nonexcess landowners. *Third*, if the lands being disposed of are excess lands, it must be conclusively demonstrated that the sale price involved does not reflect value enhancement attributable to the project. Additionally, where excess lands are to be placed under recordable contract as a prerequisite to their eligibility to receive project water, the description of the lands must be proper and accurate, and it must be clearly established that the party or parties executing the document are, in fact, the legal owners.

Before discussing the actual implementation of the recordable contracting program, it should be emphasized that any individual landowner within the water service or repayment contract service area, without regard to his total landholdings, is entitled to receive project water for 160 acres of land, referred to as his nonexcess entitlement. The fundamental requirement is that the nonexcess tract must be owned by a person or persons, private or corporate, individually or severally, who either do not own other irrigable land within the water district's service area, or if other irrigable land is owned the owner may designate the land to comprise his nonexcess acreage, which then may receive project water, but no project water can be used on the excess remainder.

Having established a tract as nonexcess, it may thereafter be sold without price approval provided the purchaser is eligible to take title as nonexcess land. If the vendor holds excess land and wishes to redesignate another 160 acres as nonexcess in lieu of the previously designated tract sold, he must sell or have sold the previously designated nonexcess tract at a price fixed or approved by the Secretary.

There are two special situations in which formerly nonexcess lands may become excess and may continue to receive project water. First, under the Act of July 11, 1956, lands which become excess through inheritance, foreclosure, etc., may receive project water for 5 years. During that 5-year period, the land may be sold without price control to an otherwise eligible purchaser.

In the second situation, formerly nonexcess lands owned by husband and wife which become excess in the ownership of the surviving spouse may, under the Act of September 2, 1960, continue to receive project water until such time as the surviving spouse might remarry. Thereafter, the basic eligibility requirements of law prevail.

Looking now to the matter of excess land eligibility and its subsequent disposition to nonexcess status, a major area of complexity is evident. Under the terms of the recordable contract, the excess landowner agrees to sell the excess land within a certain period as prescribed in the recordable contract. A 10-year period is currently used. The sale price, as fixed by the Secretary, may not exceed the fair market value of the land at the date of appraisal excluding any value attributable to the project.

The seller may also recover the fair market value of improvements on the land. The recordable contract provides that the land will be sold only to a person or persons who can take title to the land as a nonexcess owner or owners. Should disposition not be made within the 10-year period, power of attorney, exclusive and irrevocable, then vests in the Secretary of the Interior to make the disposition for and on behalf of the excess landowners.

At no time, however, does title to the property pass to the United States. Furthermore, during the 10-year disposition period allowed the landowner, the United States exercises no control over the landowner's choice of a purchaser. Our authority is limited to the determination that:

(a) a bona fide sale or transfer is involved;

(b) the prospective purchaser is eligible to take title to the land as nonexcess, and;

(c) that the price involved in the transaction does not reflect project benefits.

In making the foregoing determinations, our technical staff members, at all involved levels, as well as the reviewing attorneys on the Solicitor's staff, must rely largely on the veracity of the transaction documents which are attested to by the parties involved. Nevertheless, confirmation of the factors involved in the sale is sought through various means to ascertain and analyze every available detail of the sale especially as it relates to such elements as sale price, financing, and the eligibility of the purchaser to take title to the land as nonexcess. Regrettably, it appears that in any field of activity (economic, political, or otherwise) there are always a few who unscrupulously attempt to take illegal or unfair advantage. Others simply try to take full advantage of what the law permits. We do not condone the former and we conscientiously attempt, through our surveillance program, to sort out the legal from the illegal transactions.

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Over the years, a total of slightly over 343,000 acres of district excess land have been placed under recordable contract. Large ownerships are being broken up. For example:

81,600 acres under recordable contract have been disposed of pursuant to law and the recordable contracts have been terminated.

19,980 acres under current recordable contract have been disposed of to eligible owners.

34,180 acres never under recordable contract have been disposed of to eligible owners.

These figures total 135,760 acres.

Of excess land not yet disposed of, 241,925 acres are under recordable contract and will be disposed of either by the landowners or by the Secretary of the Interior.

A review of our field program for compliance inspections in the Westlands Water District may be of interest to you. We constantly maintain a program of water use surveillance. As the use of project water has increased, that program has been intensified. During the period from 1968 to 1975, field compliance technicians have spent an average of 24 man days per season in the field, in the course of which an average of 387 separate compliance checks have been made each season.

Those checks have brought to light an average of 14 violations per season, ranging from a high of 30 to as few as 2 or 3. Notwithstanding the increase in project water use, the violations per season have in recent years been significantly reduced. Of further significance is the fact that each violation found has been corrected within 24 hours, either through the execution of a recordable contract or by termination of water delivery.

In summary, the acreage limitations of Reclamation law, though somewhat general, are designed to break up large ownerships if such lands are to obtain project water. Our procedures for implementation of the law are designed to accomplish that end. Our records indicate significant progress in meeting the letter and intent of the law. Whenever the Congress modifies our statutory authorities and obligations in this or any other field, I assure you we have the willingness, flexibility, and capability to conform.

Senator **Haskell**. Thank you, Mr. Stamm. Who is the supervisor responsible for enforcement in the Westlands District? What is the name of the person?

Mr. **Stamm**. I guess I am the person.

Senator **Haskell**. No; I do not mean that. I mean who is actually in charge of the enforcement out there? I realize that you are ultimately responsible, but I want to find out specifically the people on the spot, the person on the spot.

Mr. **Stamm**. Well, I think there are two. I think that Forest Coleman, who is head of the Excess Land and Repayment Section, has a direct responsibility in our field office; and Mr. Richard Dauber, Assistant Regional Solicitor in Sacramento, is coresponsible; and none of these actions are taken without both being involved.

Senator **Haskell**. And they are the people immediately in charge?

Mr. **Stamm**. Yes, sir.

Senator **Haskell**. We have some figures here that indicate, and they are awfully close to the figures that you have in your statement, that the land in the district under recordable contract disposed of totals 97,000-plus acres. I think your figure is 101,000 acres. So, we are close. This is being farmed by 85 operators. According to the district figure, the average size of farm operations on all excess lands sold amounts to 2,800-plus acres. If I undertood you correctly, and if I understand the law correctly, it was meant to have 160 acres per farm. How in the world, even using the district figures, can we consider this as carrying out the intent of the reclamation law using the district figures?

Mr. **Stamm**. If I understood what you are saying correctly, Senator Haskell, you are talking about operation and not ownership.

Senator **Haskell**. I will come to ownership.

Mr. **Stamm**. The law is in terms of ownership; how much an individual can beneficially own. The beneficial owner has the right under our procedures and administration to farm the tract himself, to lease it to a neighbor, to let it sit idle, or to sell it. In other words, he has total control over how that tract is used. If he chooses to lease it, or if a farmer leases several tracts, then the operation might be larger. But there is nothing in the law that speaks to the size of operation or puts a limit on the size of an operation, either here or anyplace else in connection with the reclamation program.

Senator **Haskell**. Let us come to another figure, and this is using now an exhibit to the statement that Mr. Brody will present later. This would indicate that the total land owned in Westlands by 85 operator families averages 1,126.3 acres. Assuming that, I have interpreted—or the staff has interpreted—the exhibit in Mr. Brody's statement accurately, how could that be explained under the reclamation law?

Mr. **Stamm**. I am not familiar with the exhibit to which you make reference.

Senator **Haskell**. Mr. Stamm, would you mind, perhaps for the record, looking at that exhibit and analyzing it, and if it is correct, I wish you would give an explanation for that?

Mr. **Stamm**. I think I could give you a possible explanation now. Assuming I am a landowner, which I am not, and I owned 3,000 acres, of land and the works were built to deliver project water to the entire 3,000 acres. I could sign a recordable contract and become eligible to receive water for the 3,000 acres. However, I would be obligated by a recordable contract to dispose of that land within 10 years. But during that period of time, the term of the recordable contract, obviously, I would still own more than 160 acres, and I legally could be farming more than 160 acres.

So, you have to look at the legal obligation of the landowner to dispose of those lands within a specific period of time. Failing to do so, the power of attorney passes to the Secretary to dispose of the land. You really cannot make the kind of comparison that I think you are making until after the recordable contract period has expired.

Senator Haskell. When does the recordable contract period expire?

Mr. Stamm. Each one expires 10 years after it is executed. Obviously there is no incentive on the part of any landowner to sign a contract until the works have been built to serve his land. However the record shows clearly that as the works are completed to serve the large landowners' land, the large landowners have signed recordable contracts to make their excess land eligible to receive water.

Senator Haskell. Let me see if I understand the recordable contract. Let us say I owned 3,000 acres. Now, I have 10 years, after getting water, to dispose of the land and reduce my holdings to 160 acres, is that correct?

Mr. Stamm. You have 10 years in which to dispose of all your irrigable land in excess of 160 acres.

Senator Haskell. Now, the recordable contract that you refer to; is that a contract I sign with you at the beginning of the 10 years or is it the contract that I sign if I sell 160 acres to Senator Nelson?

Mr. Stamm. The contract that you sign is with the United States if you want project water for any part of your excess acreage.

Senator Haskill. OK, and then I have 10 years from the signing of the contract to dispose of the acreage?

Mr. Stamm. Yes, sir.

Senator Haskell. When was the first recordable contract signed in the Westlands District?

Mr. Stamm. I assume it was in the early sixties—1964.

Senator Haskell. Do you or Mr. Dauber have information as to who was the signator to that contract with the secretary?

Mr. Dauber. I believe it was a family known as the Coit family, Frank Coit, he was deceased at the time and the estate executed it.

Senator Haskell. Do you remember we had some presentation last time from Mr. Weiman of the Farmers Union. According to his testimony, he had examined the records in the county recorders office which showed both the ownership and the financing and the ownership patterns were basically in limited partnerships. The financing apparently ended up in an outfit in New York that is a Japanese holding company and the persons or partnerships allegedly owning the beneficial interest in the land signed leases with this holding company.

If all of this is correct, and I think that certainly it is Senator Nelson's and my intention to find out whether or not this is accurate by verifying Mr. Weiman's information and also by talking to the Japanese holding company, it seems to me that it is a gigantic legal razzle dazzle. I think there was some imaginative lawyer, probably very highly paid, who did a very good job.

Are you aware of any of this type of operation?

Mr. Stamm. I think Mr. Dauber should respond to that. But before he does I would like to make just one comment and that is that in the disposition of lands, if there is any such arrangement by which the purchaser does not have the full rights of beneficial ownership, if he sacrifices that in any way, shape, or form and we can ferret it out, we would not approve the transaction. But I think Mr. Dauber knows the details.

Senator Haskell. I would like Mr. Dauber to answer but before he does just let me ask you one other question. Does the Secretary have the authority pursuant to this power of attorney to void any transaction assuming the transaction was a sham and assuming that beneficial ownership in fact did not vest or was improperly vested?

Mr. Stamm. We have the authority to withhold water. If the transaction has taken place and the Secretary finds that it is an illegal transaction his authority is to refuse to deliver project water to those lands.

Senator Haskell. That is very good indeed and I assume that the Secretary would exercise that authority if it were shown that the transaction was a sham.

Mr. Stamm. Yes, sir.

Senator Haskell. Mr. Dauber?

Mr. Dauber. Thank you, Senator Haskell.

I am somewhat familiar with the transactions to which you alluded a moment ago. I believe it was some time in 1973 I received a telephone call from an attorney in Bakersfield, Calif. by the name of Robert Self. He advised me that he had some clients, a number of family groups, that were interested in acquiring some land within the Westlands Water District. Among them was a Mr. Rogers who was a farmer in what is known as the Lost Hills area of California. He asked me if they could come up and discuss the possible acquisition of some land that was under recordable contract. The contract was soon to vest, after the 10 years, with the Secretary.

I invited him to come to Sacramento which he did with—it was Mr. Rogers and my recollection it was two other persons interested in buying the land. There was also a representative or two from Reclamation there and we discussed the proposed transaction. As the transaction was explained to us, each of the individuals was to purchase a separate track of land, either 160—approximately 160—or 320 where there was a husband and wife. Mr. Rogers also stated that he wished to acquire some land for his children, in trust. We told him that this type of transaction could be approved because the land would go to the individuals in fee simple title and each of them would be eligible under Reclamation law and under section 46 of the Omnibus Adjustment Act.

Mr. Rogers then indicated that he also was going to develop or operate the land through a corporation called Jubil in which he would be the principal stockholder, he and his wife, and he would operate the land for these other people and they would enter into leases whereby these persons would get a fair return or a fair rental value for their property.

Again, it was our position that the people having acquired fee simple title to the land were entitled to lease it or enter into an operating agreement if they felt that Mr. Rogers had a better ability to operate the land.

Senator HASKELL. Did you ever examine the lease or operating agreement?

Mr. DAUBER. Yes, sir, we examined every document and we examined the trust deeds by which the properties—it is true—were financed. The sales were financed by the Japanese corporation, however, each individual had the sole and separate right for his parcel of land to pay off the mortgage, to get a partial reconveyance of his land, and he had all of the rights of ownership that we have to our houses as a matter of fact. Now, as far as——

Senator HASKELL. One question; these were conveyances in trust for certain specific individuals?

Mr. DAUBER. No.

Senator HASKELL. These were outright conveyances?

Mr. DAUBER. These were outright grants; except for the acquisition by the Rogers children which were in trust because they were minors and those trusts were drawn up according to the requirements set forth by then Commissioner Dominy and Solicitor Barry and approved by Secretary Udall in a memorandum dated March 19, 1962, relating to the holding of properties by trusts.

Senator HASKELL. If I understand what you said correctly, I presume the trustees for the trust had a right to cancel or pay off the mortgage and the operating agreement or lease? Do I understand you correctly? I just want to make sure I understand you correctly.

Mr. DAUBER. My recollection is—and this is something that I will have to check—but my recollection is that the lease was for a period of 5 years, which is a normal lease in the community. It is common for people to lease for agricultural purposes for 5 years and certainly if they were to sell within that period of 5 years they would sell subject to the remaining term of the lease.

Senator HASKELL. The lease was only for 5 years?

Mr. DAUBER. That is my recollection.

Senator HASKELL. Will you refresh it and verify it or not verify it for the record?

Mr. DAUBER. Yes, sir.[1]

Senator HASKELL. So, subject only to the 5-year lease, these people could pay off the mortgage, sell the land to me, subject to the lease during the 5 years, or free of the lease after the 5 years?

Mr. DAUBER. Yes, sir.

Senator HASKELL. Thank you.

Mr. DAUBER. Now, may I just make one or two more voluntary remarks about this particular transaction to clear the record. I believe that Mr. Weiman made reference to K. Industries and made reference to, I think, tracking it down to an organization and a company that made dentures or something. I believe that if Mr. Weiman had taken the time to look at the records in the county recorders office in Fresno County, Calif., he would have found that K. Industries is, in fact, a general partnership duly registered in the State of California and that the partners are Mr. Self and a number of his associates who reside in Bakersfield, Calif.

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

I would also like to point out that insofar as the Jubil Corp. is concerned; the Jubil Corp. acquired an amount of the personal property that was there, the pipes and this sort of thing, pumps and so on, and that the Japanese corporation does have 20-percent interest in the Jubil Corp. However, Mr. Rogers has the option to pay off the encumbrance of Jubil Corp. for the personal property and to acquire the 20-percent interest of the Japanese interests.

Further, it is true that Jubil Corp. was incorporated in the State of New York, however, I was advised by Mr. Self that it was for legal and other reasons that they chose to incorporate in the State of New York and that, as a matter of fact, of course, Mr. Rogers lives in California and farms the land in California and is the principal stockholder.

Senator HASKELL. Thank you. I consider very serious charges have been made, and I think the purpose of these hearings is really to lay a foundation to ascertain the facts. If, in fact, Mr. Rogers and all folks like him could, in fact, sell the land, pay off the mortgage and if they are individuals and only subject to a 5-year lease, that is one thing.

On the other hand, if what Mr. Weiman indicated is the case, then that is something quite different. But we will just have to ascertain this and I gather that you disagree with Mr. Weiman's presentation. Were one of you here the last time?

Mr. DAUBER. I read his prepared statement. In this connection, if I may, Senator, I do not want to prolong this any longer but our office does review all of the documents in these transactions. Insofar as leases are concerned, it has been our policy and the policy of the Bureau of Reclamation not to approve any leases in excess of 5 years with sometimes allowing a 5-year option.

Senator HASKELL. Is the price negotiable or not?

Mr. DAUBER. We look at the lease revenue. We look at the amount that the lease calls for and determine whether or not that is a fair rental for agricultural properties in this area. We determine in analyzing the value of the sale itself what the value of the lease may be. And all of this is taken into consideration in determining whether or not the sale includes a price that reflects project benefits.

Senator HASKELL. I have no further questions at this time, Mr. Chairman.

Senator LAXALT. Commissioner Stamm, may I ask you a general question? The Reclamation Act and particularly this portion of it was originally designed, if my memory serves correctly, for the so-called small family farmer?

Mr. STAMM. The 160-acre figure originally appeared in the 1902 act which was the basic act. At that time, the activities of the Bureau were primarily to develop the water resources of the arid and semi-arid West, involving irrigation of public lands. The entrymen on those lands had to conform, both to the Homestead Law and the Reclamation Law, both of which were in the 160-acre category. At that time we issued water rights to individuals prior to the time that irrigation districts prevailed to any great extent.

Subsequently, under the various State laws, irrigation districts of various types were organized with the authority to contract with the United States. And in 1926 the reclamation law was modified to permit us to contract with irrigation districts rather than individuals. At that time the language with respect to the 160-acre limitation was restated and that is the law that we have followed since 1926.

Senator LAXALT. And throughout the source of all this legislation, the legislation that has come from the Congress has been in broad general terms leaving the regulation problem to the agency?

Mr. STAMM. That is correct.

Senator LAXALT. Well, tell me this; if I were a young person who wanted to go to the soil and I wanted to come into any one of these areas, what problems would I encounter in getting 160 acres and project water?

Mr. STAMM. I think if you were like many young people, your principal problem might be money. The land prices have escalated and it takes quite a lot of money to buy the land in the first place, and it takes quite a little more money to buy the equipment necessary to operate the land sufficiently intensive to pay off the mortgage. We have no authority to acquire these lands, to resubdivide, or to offer credit to a purchaser.

So, I think that the young man would have difficulty in financing.

Senator LAXALT. And this, of course, frustrates, at least in my opinion, the original intent of the law.

Mr. STAMM. Yes, to a great extent.

Senator LAXALT. Well, tell me this. Even if I, as the young aspiring farmer, had the means to finance the project, would land, in fact, be available getting through this maze of corporate and partnership activities?

Mr. STAMM. I think so. I think if you had the money that you could go into the San Joaquin Valley today and have a wide selection of tracts of lands available to you in 160-acre parcels.

Senator LAXALT. I would not have to shop for a unit in a limited partnership somewhere?

Mr. STAMM. You would have no difficulty. Your difficulty would be selecting one form among the many that are available.

Senator LAXALT. Do you think that in light of current conditions, and particularly the vast changes in the use of land and the acceleration of values, that the 160-acre limitation is relevant at the present time?

Mr. STAMM. The West varies so widely in quality of land, productivity, elevation, and length of growing season, that, in my opinion, 160 acres applied uniformly westwide is not equitable. The Congress has recognized this in numerous authorizations in the past 15 years or more, and in some of the legislative approvals they have authorized what is called a class 1 equivalency where an individual is entitled to 160 acres of class 1 land or the equivalent thereof in other classes recognizing that in many high mountain valleys little if any of the irrigable land is of class 1 caliber.

Senator LAXALT. We have a lot of that type of land in Nevada and on the slopes in California. It just does not work. Getting into overall policy, it seems to me in essence, through the 10-year lead time, that this has become really a lawyer's paradise in which they can effectively set up transactions that are going to frustrate and eventually defeat the original intent of the law. Is there some method by which the Congress through new legislation can cut through this maze of legality and address this act back to the point where it will operate as it was originally intended to operate for the small family farm?

Mr. STAMM. My personal opinion is that it would be in order for the Congress to seriously consider modernization of the acreage limitation of Federal reclamation law. Now, there are, I think, many people that agree with that feeling. Some believe that the acreage limit ought to be eliminated. Others believe that it ought to be made much more restrictive.

Whichever school you belong to, there is a large number of people who believe that it ought to be reviewed because almost everything about agriculture has changed in the last 70 years except the 160-acre limitation. This has been a matter of discussion, as I indicated, for many years. We made a report for the Senate Interior and Insular Committee in 1964. We have discussed it internally with almost every Solicitor that has been in the Department in the last 15 years. And in the present administration we have had numerous discussions at various levels in the Department and in the Solicitor's Office on this topic, and also, with others in the administration.

But it is a very complex thing and until such time as the Congress does hold definitive hearings and considers a general overhaul, we are doing the best that we can under the law that we have to work with.

Senator LAXALT. Is the 10-year lead time relevant now under current conditions? Does this simply lend itself to a lot of real estate practice within these areas?

Mr. STAMM. Well, there is nothing magic about the 10-year period. It was adopted initially under Central Valley project recordable contracts and has been the practice for the past 30 years.

We have made at least one modification of that practice in a recent case in California where we provided that the owners of excess land must begin disposition of their excess holdings at the end of 5 years and must progressively dispose of their land from then on. They have a total of 10, but they cannot wait until the 10th year to start action.

That is about the only modification of the 10-year period that prevails. I think, as my statement indicated, that the record shows contrary to the belief of many people, that the large landowners have signed recordable contracts. They are willing to sell, and they are searching for buyers who can take the land as eligible, nonexcess landowners.

Senator LAXALT. One economic problem disturbs me. Initially, of course, the value of qualifying for the project water, for your 160 acres, would outweigh almost every other consideration. A lot of the excess land, obviously, in this kind of area particularly is very valuable.

How does this boil out economically? Do you dispose of all of your excess land simply to hold onto 160 acres and qualify for the project water?

Mr. STAMM. I am not sure I got the import of your question. Of course, it means eventually that by the end of the 10-year period, the large land holdings will no longer exist. The land ownership will be broken down among numerous individuals who will have beneficial ownership, and who may or may not farm the land themselves. They may choose to put it under a farm management organization or lease it to neighbors, but so long as they have the total control of what is done with it and they get the benefit of the products of the land, they are within the law.

Senator LAXALT. The bottom line result here is, is the land within a project like this being properly farmed?

Mr. STAMM. I think so. I think that this land today is among the best lands in the State of California. The irrigation system that is being built is a closed, pressure-pipe system. It will be one of the finest irrigation systems in the United States. The total cost of that system will be repaid by the users themselves.

The delay in construction has increased that cost substantially. Our original plan was to have this system completed in 1969, and then the full benefits would be realized and the revenues would begin flowing back to the Treasury. Because of delays in construction, the costs have gone up, which puts a larger burden on the users, and it makes water more costly as time goes on.

Senator LAXALT. Referring to your testimony, at least in my areas of interest—if a young family did want to core in to farming in these various areas, the land would be available?

Mr. STAMM. Yes, sir.

Senator LAXALT. Apparently, he would have substantial financing costs with no apparent relief on the Federal level for that type of cost? Or is there?

Mr. STAMM. We have no such authority. Possibly there could be some help through the Farm Credit Administration.

Senator LAXALT. There is some serious question, I guess, as to the relevance now of the 160-acre limitation or even the 10-year contract time, which you said is not a magic number.

Mr. STAMM. That is right.

Senator LAXALT. So, in essence I guess what you are trying to tell us is that there is a substantial area of inquiry that this Congress, at least this committee, could make in this area.

Thank you, Mr. Commissioner.

The CHAIRMAN. As you know, 11 years ago in 1964, and then in 1966, in behalf of the Interior Committee, I conducted hearings on the Westlands Project. That was almost 10 years ago, and I have not had an opportunity to fully refresh my memory respecting the law and the facts. I realize that it is an enormously complicated matter and that there are still some years to go before all of the excess lands will be sold under recordable contract so that we will not really know the result until the final sales are made of excess lands under recordable contracts.

So whether or not at least the spirit and intent of the Congress is successfully implemented or the spirit and intent, as I have understood it, has been implemented, will not be known until all the excess land has been sold.

Mr. STAMM. Mr. Chairman, if I could comment at that point—where recordable contracts have now been signed, those lands will be disposed of either within the term of the contract by the landowner or thereafter by the Secretary. The disposition may not have taken place now, but we do know now that the disposition will take place by one means or the other. There will be some some lapse before the result occurs.

We know now that of the lands we can serve today, 85 to 90 percent of those lands are eligible for water as nonexcess or are under recordable contract and will be broken up into nonexcess holdings.

The CHAIRMAN. What is the total acreage that you expect the district will finally expect to serve? What is the total acreage? What is the amount of land acreage that has already been sold under recordable contracts, and how much acreage is now under recordable contracts?

Mr. STAMM. In my statement on page 11 you will notice that it says, "81,600 acres have been disposed of pursuant to law, and the recordable contracts have been terminated." That is totally accomplished: another 19,980 acres under current recordable contract have been disposed of to eligible owners.

In addition, 34,180 acres that were never under recordable contract have been disposed of to eligible owners. These figures total 135,760 acres.

The CHAIRMAN. How many?

Mr. STAMM. 135,760. Of the excess land not yet disposed of, 241,925 acres are under recordable contract and will be disposed of either by the landowners or by the Secretary of the Interior.

The CHAIRMAN. Now, can you tell the committee about the 137,000 acres that have been disposed of under recordable contracts?

Mr. STAMM. 135,000, and 241,925 more are under recordable contract and will be.

The CHAIRMAN. Of that 135,000 acres that has been disposed of, can you tell the committee how many of those purchasers of 160 acres actually live on or near the farm, participate in the actual farming of the land? Can you give us that?

Mr. STAMM. It is possible that the manager for the district, Mr. Brody, might give you an answer to that. I notice that he is scheduled to be a witness. We would have to make a special survey because our obligation is related to making sure that the owner, the purchaser, is eligible to take title, and we do not conduct or exercise any surveillance over whether he moves onto the land, leases it, or sells it. Our concern is to make sure that if it is sold, the sale again complies with the law.

The CHAIRMAN. I think I could say that it is the viewpoint of the people I have talked with over the years who have been supporters of reclamation projects and the 160-acre limitation that they are unanimous, as far as I know, in their assertion that it has always been the intent of Congress to see to it that actual farmers get the land, and that actual, active, participating farmers get the water.

Is that not the general thrust of the support behind the reclamation laws and the 160-acre limitation over the years?

Mr. STAMM. There is nothing in the law that gives us——

The CHAIRMAN. I was not asking that question. I was asking the question—in the last 11 years and in the 2 years I conducted hearings prior to this and over the years when I have talked to Members of Congress, people in the reclamation field, I have yet to run into the first person who did not say that the objective of Congress, the public purpose to be served, was to get water to real farmers who are eligible to buy 160 acres, and if married, 320 acres.

Is that not your understanding or what your interpretation of the intent of the Congress was in passing this kind of legislation?

Mr. STAMM. I personally have not seen documentation that what you indicate is a unanimous opinion of intent of the Congress.

I at one time sat before a former chairman of the Interior and Insular Affairs Committee—who, incidentally, was chairman, I believe, at the time of the 1966 hearings—and I made reference in one of my comments to what I thought was the intent of Congress. He criticized me somewhat and asked: How did I presume to know what the intent of Congress is? He said, Congress will decide what the intent of the Congress is, and it is my job only to carry out what the Congress lays down in the way of statutory legislation.

But I do think that the 160-acre limitation certainly indicates the thought that these Federal reclamation programs would be for the benefit of the farming community. Generally speaking, the average size of ownerships, and even the size of the farms in many valleys out West is much smaller than 160 acres, and I think that this may well come in time, even in the Westlands district.

When the lands initially were developed by private capital and private owners, by the development of ground water from deep aquifers with costly wells, large landownerships were established. The lands will eventually be broken up into the same kind of family-type operation that you find, say, in Boise Valley, Idaho, or in the Yakima Valley of Washington State, but it cannot be accomplished overnight.

I think the evidence is that in time the changes will be in that direction, and inevitably so when you find that the lands ultimately must be owned in a 160 acres per person in order to qualify for project water, and project water is essential in the long run to a successful farm.

The CHAIRMAN. I understand that, but my question is, is the public purpose for which these projects were designed and implemented and public moneys spent being accomplished, not whether technically within the law, the law has been complied with?

In 1966 Assistant Interior Secretary Kenneth Holum stated much better than I have what I think is the accepted viewpoint of everybody who has voted for these projects in Congress, everybody who has been interested in them, agricultural groups, farm groups, everybody else. I will read into the record his statement in 1966 at the hearings I was conducting at that time:

> As a final point, I should like to emphasize continuing and keen interest of the Department on furthering the interest of the family farm concept in our irrigated agricultural programs. The reclamation program has traditionally sought to foster family farm development.
>
> We believe it has been successful in this respect. Of major significance is the uncontestable fact that the reclamation program among all the federally assisted water resource development programs has the most specific requirements and controls designed for the exclusive benefit of the family farmer.
>
> We believe that the decisions of the Department on the Westlands contract, as well as other recent important questions involving the reclamation program, has strengthened the role of government in fostering family farms.

I think he states the philosophical concept behind the legislation that Congress enacted almost 75 years ago. Now, the disturbing thing is that somehow or another it appears, to me in any event, that while the law might be technically complied with in all respects, the objective is not being accomplished.

Mr. STAMM. Mr. Chairman, I take no exception to what Mr. Holum said. I agree with him. I think that our policies and our procedures are intended to accomplish the objective as well as the letter of the law.

There is a limit beyond which we cannot go for lack of authority. There was an exception to this in connection with the Columbia Basin project.

The Columbia Basin Act authorized us to purchase all of the irrigable lands and to subdivide them, lay out farm units and to sell those farm units to eligible purchasers. We do not have that authority anyplace else. If you were to carry out the intent to the full extent that you imply, then some agency needs to have the authority to acquire the excess lands, to subdivide in a logical pattern of family farms, and to provide financing for the young farmers who might want to get out on the ground and farm for themselves.

The CHAIRMAN. Well, now——

Senator HASKELL. May I interrupt, Mr. Chairman?

On the value that we have been talking about, Mr. Stamm, my understanding is that the land has to be sold at a value, a present-day value, but minus the water rights, minus the value added by water. Is that correct?

Mr. STAMM. Minus any value added by project water, yes.

Senator HASKELL. That is what I mean. Can you give me an idea of what, on a per-acre basis without project water, land would sell for out there.

Mr. DAUBER. Senator, may I respond to that?

That is a question which I am not sure can be anwsered in the specific because you are talking about an area of some 600,000 acres.

Senator HASKELL. I realize it is difficult. Let us be specific then. Let us talk about that transaction you mentioned that has ended up financed by the Japanese organization. Tell me some of the sales prices involved.

Mr. DAUBER. I think that the sales prices of irrigable land in the Westlands Water District that have been levelled and cropped and have a supply of well water, which subsequently will receive a supply of project water, have probably sold in the range of $500 to $600 an acre.

Senator HASKELL. There was testimony last time that 160 acres is an economic unit for a farm, presumably in the fruit and vegetable area. Do you happen to agree with that, that 160 acres is an economic unit?

Mr. STAMM. Senator Haskell, this varies by type of farming, as you know, and the intensity.

Senator HASKELL. We undertsand that, but assuming that you are a smart farmer and assuming that you put in the crop that is most profitable, would 160 acres be an economic unit?

Mr. STAMM. I think that there are units of 160 acres or less that are successful. They are in specialized crop production and are well managed.

If the entire area went into the same kind of specialized crop production, then probably none of them would be profitable. That is what I am trying to say.

Senator HASKELL. You would have too many vegetables, is that what you mean?

Mr. **Stamm.** Well, cherry tomatoes, for example, or a fruit, or figs that you might put in fancy packages for the Christmas market. I have heard of people with 40 acres of figs that did quite well, for a specialized type of operation, but if the entire area went into this, or if the entire area went into cherry tomatoes, I think it would become unprofitable for all concerned.

Senator **Haskell.** OK.

Excuse me, Mr. Chairman.

The **Chairman.** Pursuing the point that we were on—the case of Jubil I suppose would be a good example—where the owner of excess lands decides to set up some kind of a syndicate operation in which there is a group of buyers who buy, and own, and control, and have beneficial rights, and full title, and the land is to be operated by one operator. Are you required by the law to approve that kind of a disposition?

Mr. **Stamm.** Let me say that if I were one of those purchasers, and I were obligated in the purchase arrangement to hire a certain individual or a corporation to farm that tract in my behalf, and have him decide what my share of the profits would be, the Bureau would not condone and would not approve that kind of an arrangement.

If I can buy a tract of land, and have full rights of ownership and can choose whom to have farm it in my behalf, or can fire the manager the next day and hire someone else, or lease it, or sell it, then I think the Bureau would have to go along with that transaction as a legitimate sale.

The **Chairman.** Well, you see, when you get into the syndicate operation, the gentleman farmer has the beneficial interest, and the last thing in the world that he wants is to exercise his right to manage that piece of property. The first thing he wants is a manager, so he would not invest if you told him, he had to take the 160 acres and farm it. He would not know what to do with it. He is not a farmer. He is a corporation executive in General Motors, a Japanese corporation, a lawyer, a doctor, anything but a farmer.

So you have the situation in which by the creation of the syndicate, you end up barring the real farmer from getting involved.

My question is, What does the law require? Suppose a landowner of 50,000 acres sets up a plan in which he will sell to nobody except an investor who is willing to sign a 5-year lease. As I understand the testimony, you would approve, even an option for another five. He puts up the land, and he is selling to everybody all over the United States. There is no question that after signing the lease, when 5 years is up, the farmer, the owner can withdraw. He can do anything he pleases. He is the beneficial owner. He has title in fee.

Are you compelled under the law to approve that? Or could you say to him, no, we do not approve of that? You get individual owners who are going to farm that land.

Or take the first half first—do you have to approve of that proposal?

Mr. **Stamm.** If your first assumption is correct, that each individual purchaser is eligible to take land as a nonexcess landowner and has full rights of ownership, I do not think that we would have a basis for rejecting the sale. I wish there were enough young, individual farmers with adequate financing to purchase these tracts that are available. I think that the seller would be just as happy and would be more pleased with an arrangement whereby he could sell to 20, 30, or 40 individual farmers that proposed to move on a place, rather than to deal with an investor.

But when he is faced with an obligation to dispose of his land within 10 years, and if there are not enough individual purchasers with financing to buy, then he obviously would be interested in some other legal arrangement.

However, there are cases that we have to investigate with more than average care. When we find a legally insupportable arrangement, we reject the proposal.

The CHAIRMAN. In the syndicate investor type case, you are selling land to people who simply want to invest in land. Whether that is a good idea or not from a financial standpoint, I do not know. We all know that there is tax-loss farming, raising beef all over the country, with movie actors and wealthy people investing large amounts of money. They never see the farm, they never intend to go anywhere near the farm, but the capital is there, and the farm is run for them. So, whether or not that is profitable—I think it was profitable until the beef price dropped off—there are investors for this purpose who not only have no desire but who would reject with horror the idea that they would have to get on the land and work with the crops. We know that.

So, along comes this syndicate development, such as we are seeing out there, and you say that you are compelled under the law to recognize that. Now, does that include—if in the offer to sell there has to be a 5-year leaseback? Now, the syndicate operator is selling and he says, we will sell to you. I am a buyer, and I say, I would like to buy and I will sign a 5-year lease. Or if I say I will not sign a 5-year lease, can he reject me and only take those cases where the buyer-investor is willing to sign a 5-year lease for management of his property?

Mr. STAMM. I would like to ask the man who reviews these documents to respond.

Mr. DAUBER. First of all, I would like to state for the record, Senator Nelson, that I do not believe that we have what you term as syndicate development within the Westlands area.

The CHAIRMAN. Well, investors.

Mr. DAUBER. I think that what we have is a group of individuals who get together to buy individual parcels of land, and as a general rule, one or more of those people who buy the land also operates the land. That is precisely what happened with Mr. Rogers. Mr. Rogers invested his own money, and he is operating the land. And the other people are getting a fair return on it.

Now, you asked whether or not—and incidentally, in that sale, it was a sale from Mr. Giffen, and Mr. Giffen did not go out and solicit these people as "a syndicate" to buy his land. As a matter of fact, it ended up that these people had to bring a specific performance action against Mr. Giffen to require him to convey the land, because the escrow did not close in time, and Mr. Giffen determined that he no longer was under a legal obligation to sell. So, with that in mind, I will attempt to answer your question. If an owner went out and said, "I will sell to you, but you must lease back to me," and the buyer came to us and informed us of this, we certainly would take whatever action we have within our powers to require that person to sell the fee simple title to that land, under the recordable contract, without being subject to a leaseback arrangement.

Senator **Haskel.** Suppose, if I may just change the situation a little bit, he says not lease back to me but lease to the XYZ Corp. would your answer be the same?

Mr. **Dauber.** Yes; we would take the position that that individual buyer should have the option to lease to whomever he wants, to sign an operating agreement with whomever he wants, to farm the land, if he wants to, or to make a tennis court out of it if he wants to.

Senator **Laxalt.** May I ask a question, Mr. Chairman? On these transactions, how many of these transactions involve units in a limited partnership? Is this a pattern in this project?

Mr. **Dauber.** I believe, Senator Laxalt, that a few years ago, it was becoming a pattern, that the utilization of limited partnerships was becoming more and more prevalent. However, we have attempted, within our means and within the opinions that we have been able to refer to, I think, effectively stop this type of pattern. We have taken the position, that where an individual sets up a limited partnership in which he is the general partner and he has the effective operation and control of that property, that he cannot set up any more.

Senator **Laxalt.** Well, tell me this, was the limited partnership emerging as a pattern of use for a vehicle of tax shelter?

Mr. **Dauber.** I do not know. I can only speculate. I would say probably yes. As a matter of fact, I am sure that some family farmers out there, of which we have a great number, utilize a family corporation, and I am sure that this is probably for reasons, among others, of limiting their liabilities and maybe for tax purposes. We allow a family corporation to own 160 acres, but we look through the corporation to determine the beneficial interest of each of the shareholders, and make sure that they do not have more than a total of 160 irrigable acres of beneficial interest.

Senator **Laxalt.** Well, certainly, then, those cases where the limited partnership was used, as a tax vehicle, there was no incentive whatsoever to derive any profit from the ground, was there? There would be no incentive to make any money, so that there would be a taxable profit.

Mr. **Dauber.** I think maybe the utilization of them was where you are going to acuire a parcel of property that was undeveloped which was going to get project water, and then it would take several years to develop either citrus or grapes or something where you could write off during that period of time, your developing costs, although again, this is speculation. I am not a tax attorney.

Senator **Laxalt.** This area is almost entirely crop production of one kind or another, is it not? You do not have any stock in there, to speak of, do you?

Mr. **Dauber.** It is primarily row crops, and they are developing some vineyards, and some citrus. As far as I know, there may be some irrigated pasture where they carry some livestock. I think there is.

Senator **Laxalt.** That land is pretty expensive for sheep or cattle, I guess.

Mr. **Dauber.** Of course, if the price of beef keeps going up, that may not be the case.

The **Chairman.** Let me pursue the point that I was making. You said a few moments ago that it was a common pattern, and it does appear to be from some of the records that I have looked at, for an owner who has excess land to sell 160 acres, or sell his excess lands in 160-acre parcels, to a number of people who want to make an investment but do not want to farm. I think that is the natural way a lot of land would be disposed of because the fellow who does own it, and does operate it, and does farm it actively now does not want to go out of business. So if he had 5,000 acres, and he can set up a trust for four children, and he and his wife can own 360 acres, and he can get a brother-in-law and an uncle, he can put together, within the family and all of the family relationships, through agreements, 1,000, 1,500, 2,000 acres. Now he has 3,000 acres to dispose of, but he wants to farm the 5,000 acres and not the 2,000 acres, and that is natural enough.

Now he goes to find buyers to hold together his 5,000-acre parcels which he intends to operate himself.

The testimony of Mr. Dauber is that if, in an offer to purchase, the owner says the purchaser must sign a lease with him to manage the land for 5 years, did I understand you to say, Mr. Dauber, that if that person who had that offer in his hands, came to the Bureau, you would force the owner to sell the 160 acres with no lease agreements to that person to whom the offer was made?

Mr. DAUBER. I did not say we would force him to do it, because I do not know whether we have the authority to force him to do it. We would certainly attempt, with whatever means we have, to require him to sell that property unencumbered by a leaseback arrangement. However, I would like to say that I did not mean to infer—and if I did, I want to correct the record—that we have at any instance, or have had instances where such has ever happened. We have not. As a matter of fact, I do not think that it is a fair assumption that the large landowners all wish to keep all of their ownerships—excuse me, their operations—within the Westlands Water District.

As, for example, Mr. Giffen, whose name has been bandied about quite a bit, did not, in fact, choose to stay in the farming business in Westlands and dispose of all of his lands.

The CHAIRMAN. How old was he when he disposed of his land?

Mr. DAUBER. In his early 70's.

The CHAIRMAN. Well, I can understand why he would want to quit farming at 70.

Mr. DAUBER. I can also give the Senator a number of examples of other ranches which have been sold, or are being sold, where they are being sold to individuals who intend to operate them, and there is no leaseback arrangement with the present owners. I think that leaseback arrangements, which must be voluntary, I think, are the exception rather than the rule.

The CHAIRMAN. That last sentence, leaseback arrangements which must be voluntary?

Mr. DAUBER. Which we feel must be voluntary are the exception rather than the rule. In other words, we have never had anybody come to us with a proposal whereby the seller says, as a requirement these people have to lease back to me. We have had people bring proposals to us where they say, we are going to buy this land, and we are going to lease it back, but it has been a voluntary thing. They have certainly had their options of who they want to lease it to, or if they want to operate it themselves.

The CHAIRMAN. Well, you addressed yourself precisely to my next question. Is it not a fact that in the real world, the way things work is that the owner, who does want to continue to farm the 5,000 acres, is able to set up trusts for children, to sell to some relatives, and then wants to sell the other 3,000 acres to people who will allow him to continue to farm it? I would assume that the real world practice probably is that he goes to people who would like to invest in some land, who know he is a good farmer, who think it would be a good investment for them to make, and they say, yes, I will buy, and I want you to operate my land for me, just as you have done with this piece of property for many, many years successfully in the past.

Now, that is an easy arrangement to make. You just get a real estate agent, and your friends or whoever, and you seek people who want to make an investment. The point I am trying to make is, how does a real farmer who wants to farm get to that fellow and get 160 acres of that land, when, in fact, he wants to farm the whole thing, and all he wants is an investor? There is no way he can get there, is there?

Mr. DAUBER. I think, Senator, that probably you have come to the crux of the problem, and that is, is it the intent of Congress to require the sale of excess lands to a certain group, or, as the 1926 act says, is it the intent of Congress to have the property sold to eligible owners, at an approved price? We do not have the tools presently to require that the property be sold to a certain type of group of individuals. For example, if John Doe owned excess land in Westlands Water District, and came to you and said, you own no other land in the district, and I have the lands which I can sell at an approved price, for $500 an acre, and I would like to sell you 160 acres of land within the district. And I would like to enter into a lease to furnish you a fair return on the money, a lease in conformance with other leases in the area.

I do not believe that, under the present law, we can say that Senator Nelson could not buy that 160 acres of land.

The CHAIRMAN. So, as I understand the parameters of how this operates, under your interpretation of the law I could buy the 160 acres and enter into a lease—and correct me if I misunderstand your interpretation of the law. As we all know, there is a Federal district court case which is now on appeal in the circuit court of appeals, which for some strange reason has been sitting on it for more than a year. I have the opinion of Judge Murray of the district court in my office, but I have not read it yet. My staff has read it and advised me it is a very strong opinion in which Judge Murray said that his interpretation of the law was that the purchaser-owner had to live on or near the land. Is that roughly the correct interpretation of what Judge Murray said in that case?

Mr. DAUBER. Yes; I think that is a general statement. He said, as I recall the case—and I have read it—he said that the residency requirement is still applicable to projects for which water is served under the 1926 act.

The CHAIRMAN. Now, then, under the interpretation that the Department puts on the law, an owner does not have to live on the land, does not have to live near the land, does not have to be a farmer, can be the president of General Motors, or a Member of Congress—would that include foreigners, too?

Supposing a British citizen decided to buy 160 acres, can he buy it and get the benefits of the tax-supported water project?

Mr. DAUBER. I know of no law either, either under reclamation law or otherwise, that says that an alien cannot buy and own property in the State of California, the same as anyone else.

The CHAIRMAN. So we have a reclamation project with a total cost of $500 million. Is that the projected cost of Westlands? That is the figure I had in my head from 10 years ago.

Mr. STAMM. Something ultimately over $300 million. The 1926 act, Mr. Chairman, does not include a residency requirement. And I am sure that you know that the residency requirement has been rigidly adhered to in connection with the disposition of public land from the beginning, and still is today.

Now, just as in connection with the homestead law, when the patent passes to the patentee, he then has the right to do with that land as he chooses. He has full rights of ownership.

The Bureau of Reclamation, with the full knowledge of the Congress, and based on review, time and again by various solicitors of the Department, has not required residency on privately owned land in reclamation projects for many years.

The CHAIRMAN. I am not qualified to quarrel with any lawyer in the field of reclamation law, because I am not qualified—I have not studied the law enough. But it is true, however, that Federal District Judge Murray does quarrel with the interpretation, if I am advised correctly. He said that the Department could not repeal the 1902 statute by interpretation.

But, in any event, I am not trying to quarrel with you about the local law, because I am not qualified to do so at this time. In any event, I would like to have the record clear, however, and from what I understand Mr. Dauber's response to be, it is at least theoretically possible, and as a practical matter, has happened to some considerable extent, that every single acre of land out there could be owned by somebody who lives on Wall Street, in Florida, in England, and so forth. Here is a huge project, with large amounts of taxpayers' money being spent, where the purpose, at least the purpose that everybody had interpreted the law to be, is not being accomplished because somehow, interpretations of the law or statutes passed by the Congress have frustrated the whole purpose of the act. Is that not correct?

Mr. STAMM. Well, you said theoretically it is possible, and I think that theoretically that could happen. Practically, I do not think that it ever will, but I think that if Congress wants to be sure that that theoretical situation never occurs, as I indicated in my statement, we certainly have the capability and the willingness and the flexibility to conform with whatever additional authorities and obligations the Congress may place on us.

You made reference to Judge Murray's decision on residency.

The CHAIRMAN. Which I say, and I repeat, I have not read——

Mr. STAMM. There were two cases. The first was in connection with the Imperial Irrigation District, as to whether the acreage limitation applied at all to that district. The judge in that case was Judge Turrentine, as I recall, and his decision was that the law did not apply to the Imperial Irrigation District.

The second case with regard to residency came up, and the decision was not only that the basic law should apply, but that the residency provision should apply also. Obviously, these two judgments are in conflict, and so, we really had no choice but to seek an appeal, and as you indicated, it has been on appeal for some time.

The Chairman. Back to the question of what was the intent of Congress. I do not have the testimony here, but I will put it in the appropriate place in the record. I do recall having read Congressman Sisk's testimony, in which he stated how many farmers there would be and how many people would be living there, and what a great program this was for the family farmer, and I am sure that he meant it. I think everybody in the Congress agreed with that. That is what we were doing and why we spent the money. We did not spend the money so that investors from Japan and New York; Wall Street lawyers, and absentee owners would be the beneficiaries of a huge expenditure of public moneys.

Whether that was inevitable because of the statutes, the interpretations, and the court cases, I do not know. I doubt whether it had to be that way, but if so, I hope that this is the last reclamation project in the history of America. It will be the last one that I will ever vote for, if this is the result of the expenditure of taxpayers' money. I think it is one of the most shocking things that I have ever seen in my lifetime in politics, that a law which we all thought was aimed at giving a family farmer, a dirt farmer who is there on the land, a chance to own his land and farm it, ends up in the hands of a whole bunch of investors.

Mr. Stamm. Only time will tell for sure.

The Chairman. It will be too late then.

Mr. Stamm. One of the largest landowners out there was, and is, the Southern Pacific Railroad, and when you held hearings in 1966, as I recall, one of your concerns was whether the Southern Pacific and other such large landowners would, in fact, sign recordable contracts, or would they sit there and somehow obtain an unearned benefit from it, by reason of the Federal investment? The facts show that when water can be delivered to the Southern Pacific lands, they have signed, and are signing, recordable contracts. They themselves do not farm the land. It is farmed by their lessees, and I believe it is the intention of the Southern Pacific, if they can, to give their lessees the first opportunity to purchase the lands that they have been farming under lease.

Now, certainly I think that all would agree that the theoretical situation you talk about is not what was intended by anybody involved in the reclamation program, or the Westlands District: that is, to have this a tractless area, insofar as homeowners are concerned, and owned totally by Wall Street and others. I personally do not think that will occur. I think as time goes on, we will find that it will grow more nearly like the development that has historically occurred in other irrigated valleys of the West. But there is no way we can prove that today.

If there are ways and means or statutory adjustments that can give greater assurance of that kind of result, as I indicated before, we stand ready to carry out the will of the Congress.

The Chairman. Would you as a matter of personal opinion or philosophy support a change in the statute, requiring that owners should live on or near the land and giving preference to owner-operators?

Mr. STAMM. Well, you said two different things. One would be a requirement and one would be a preference. I do not think you could have a hard and fast rule. Many elderly farmers depend upon their farms for an income. When the time comes that they must move to town or elsewhere for health or age or other reasons, they still may need the income from their farms. There are many situations like that that would have to be taken into account.

The CHAIRMAN. Yes. I understand. Let us take the second question. Would you support a change in the statute that would give first priority to any purchaser who was to be an owner-operator as against any other?

Mr. STAMM. I would not want to, off the cuff, indicate the specifics of a change, but I do think that there are things the Congress could do in this general direction which would be very helpful. One would be to provide adequate credit to the young farmer that wants to be a farmer and live on the land.

The CHAIRMAN. I agree with you. I have introduced legislation like that for 10 years.

Mr. STAMM. Also, in order to expedite the breakup of the large holdings and the establishment of the family farms, there perhaps would need to be authority for some agency to acquire land, maybe not all of the lands, but certainly excess lands.

The CHAIRMAN. Is that like the Canadian concept?

Mr. STAMM. I am not acquainted with Canadian law.

The CHAIRMAN. They will purchase land and sell back to a farm operator under certain long-term loans, and so forth. Are you thinking of that concept?

Mr. STAMM. I am thinking of the concept where some Federal agency would have the authority to acquire lands and to resell them and provide adequate credit for legitimate farmers to get on the land. This is purely a personal expression because these kinds of things have been discussed with your committee, with the Congress, with the administration from time to time, and so far nobody has come up with any official recommendation or statutory program in that regard.

The CHAIRMAN. I think that last suggestion was a very good one. Would you give the committee the benefit of your and your counsel's suggestions on any changes that you think the Congress might or could adopt that would better implement the public policy or what I understand to be the public policy objective as stated by Assistant Secretary Holumn in 1966?

Mr. STAMM. For me to supply this——

The CHAIRMAN. That is a policy question and you would prefer not to?

Mr. STAMM. No, this would have to come through the Department and through the established channels, which means it would be reviewed by the Solicitor, the Secretary of the Interior, the Office of Management and Budget before it got to the Congress. That could take longer than you would want to keep your record open.

The CHAIRMAN. One more question. You were here, I think, this morning. Senator Haskell and I have a letter prepared to send to you requesting that you postpone the final implementation of this contract pending before the Interior Committee, giving us some time to explore this in greater depth and, if necessary, to introduce appropriate legislation.

Mr. STAMM. I do not know what kind of a time frame you have in mind, but in no event would this contract be executed by the United States until after an election has been held locally. The earliest time under California law that an election could be held would be November, and I understand that the prerequisites to an election are such that it is doubtful that an election could be held until the next opportunity, which comes next spring.

The CHAIRMAN. I am glad to hear that. I had been told that it was every 2 years. You are saying it is November and next spring?

Mr. STAMM. It is twice a year, three times a year, perhaps; once in the fall and twice in the spring, depending on whether it is an even or odd year.

The CHAIRMAN. What is that, 80 days notice?

Mr. DAUBER. Sixty days notice.

The CHAIRMAN. Is this an election under California law?

Mr. STAMM. Yes.

The CHAIRMAN. I mean a referendum, is that what it is?

Mr. DAUBER. It is an election under section 35881 of the California water law.

Mr. STAMM. We have prepared here, as a result, I believe, of a question from your staff member, Ray Watts, a chronological outline of the legal procedure and requirements leading up to execution of contracts, such as Westlands, and I would be happy to make this available for the record.

The CHAIRMAN. Thank you very much. That will be printed in the appropriate place in the record.[1]

A question on the letter that Senator Haskell and I will be signing in behalf of the two committees. The statute, as I recall it, simply says the contract shall be sent down to the appropriate committee and be there for 90 days. It does not say whether the committee can reject it or approve it. So far as I know, it is a requirement of the statute. What the legal implications are, I do not know. Do you know?

Mr. STAMM. Your description of it is essentially the same as ours would be. This is not the only situation of this type. The Rehabilitation and Betterment Act of 1949, also provides that repayment arrangements shall be submitted to the committees of Congress, and no action shall be taken to execute a contract until it is before the committees for 60 days.

It does not provide veto power in the Congress. In most cases, the committees have let the time run. In a number of cases, the committees have specifically answered and given approval to the rehabilitation and betterment contracts. In one case, the committee took exception to a contract that was up here, and the Department, although not required to do so legally, voluntarily withdrew the contract, had further discussions with the committee, resubmitted the contract, and on a second submission it was approved in writing by the committee with no change. It is primarily an opportunity to give the committee a fuller understanding of the intention.

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

The **Chairman**. I do not know what that section of the statute means. I assume, nevertheless, that Congress should not intend it to be a nullity. What it did intend, I do not know because, so far as I know, it has not been a test case.

Mr. **Stamm**. The first Westlands contract was submitted likewise, and I think it was before the committee at the time of the 1964 hearing. There was some question as to whether the amendatory contract, that is now here, needed to come to the committees at all. However, it was felt that if there were any question, and in order to make full disclosure to all concerned, we would submit it to the committees of Congress, whether or not the legal interpretation would require it.

The **Chairman**. Well, then, what is your response to my question, that when you receive a letter from the two respective committees, whether you will delay implementation of this contract and delay signing it, until we have had an opportunity to pursue these hearings?

Mr. **Stamm**. What I intended to say was that there is going to be a delay in any event because an election could not be held before November, and probably not before next spring. In any case, we would not execute the contract even if everyone were in full agreement until after the election, so there undoubtedly will be a considerable length of time. If the election is next spring, there likely will be 9 or 10 months before execution in any event, and I understand your field hearings are scheduled to be held much sooner than that.

The **Chairman**. I doubt whether we would finish them up. We intend to have some field hearings, but I doubt whether we would finish our consideration of this before those elections, that is, if they are in November.

My next question is, if in fact we have not finished our exploration of this issue and there were an election in November or next Spring, are you obligated to sign the contract, or could you hold it up, or could you modify it?

Mr. **Stamm**. The Secretary is not obligated to sign the contract. There have been cases where elections had been held and carried by a high majority, in which the contracts were not executed; but unless there were a good reason not to execute it, I think that it would be logical for him to do so.

The **Chairman**. I understand that. I was just inquiring as to what the law is.

Mr. **Stamm**. It is advantageous, we think, to execute an amendatory contract. We have valid, existing contracts today, both for water service to the Westlands District, and for the distribution system which is under construction. This amendatory contract makes a number of changes and combines those existing contracts into one. We think it is advantageous to proceed with execution of the contract, but if your hearings reveal something that is unknown, that puts a new aspect on it, and if the district is willing to negotiate any modifications prior to execution, that is within the realm of the parties to the contract. We cannot unilaterally change the valid existing contract, and neither can the district. There is no way we can force the district to make changes if they have a valid existing contract under which they could continue to operate.

Senator **Haskell**. I think that what we are asking, Mr. Commissioner, is will you withhold execution of that contract until the hearings and the investigation has been completed? That is what we are specifically asking?

Mr. Stamm. And I am asking when will those hearings be and when will they be complete? You are asking me to answer that in the abstract.

Senator Haskell. I think that we are talking realistically, probably 12 months from now. Would you say so, Mr. Chairman?

The Chairman. Well, the only problem with that is that there is an election that could be held in November and one next Spring, and I would hope that we would be able to move faster than that. I think the Commissioner did answer to the extent of saying that, No. 1, under the law they do not have to sign the contract even after an election, but, No. 2, if some persuasive reason were to develop in the course of our hearings, they had the authority, and if they were persuaded, they could hold up signing the contract. Is that correct?

Mr. Stamm. Yes; I would certainly want to look at the circumstances at the time. This contract, you know, has been approved by the Secretary as to form. It has cleared the Office of Management and Budget, and, therefore, if the election is favorable, based on what we know today, there would be every reason for us to proceed with signing it.

Senator Haskell. If the election is held in November, there is no question in my mind—and I do not know how Senator Nelson feels—that we will not have completed our hearings. For that reason, I asked for a delay. Maybe 12 months is too much. Let us say to June 1 of 1976, because we do not know, ourselves, Mr. Stamm, whether or not anything will be developed that will indicate that the contract should not be signed. We cannot tell you now. For that reason we are asking that you give us enough time to complete an investigation which may or may not reveal any reason for modifying that contract. Maybe the contract in its present form is just fine. I do not know.

Mr. Stamm. There is no way I can speak for Mr. Brody as to when he may attempt to call an election. He will be on the stand. If he already has made up his mind that the election will not be held until next Spring, then you automatically have 8 or 9 or 10 months in which to carry on your deliberations, even without any——

Senator Haskell. Well, I do not like to be at the tender mercies of Mr. Brody. In other words, I am asking you, as a representative of the U.S. Government, to withhold signature of the contract to give us time. I am saying, June 1, 1976 will give us time, and I am merely asking you, Mr. Stamm, if you will comply with that request?

Mr. Stamm. I am not in a position to speak for the Secretary who has approved of the contract. Now, the Secretary and the Bureau of Reclamation are very sensitive to the will and desires of the Congress. I think our record is fairly clear in that regard. I think it would be premature at this time for the Secretary to agree to arbitrarily withhold signing unless he has some reason, and certainly there is no way I could speak for him in that regard.

Senator Haskell. Perhaps, we had better address a letter to the Secretary.

The Chairman. Let me pursue that point for a moment. As I understand it, you are not required to sign the contract even though the election is held, and the amendatory contract is approved. That the

Secretary may change his mind; he is not required to sign the contract.

Mr. STAMM. There is nothing in the law to my knowledge that says that he must sign this contract.

The CHAIRMAN. I interpret what you have said to be that the Secretary may, but he does not have to, sign the contract as approved in the election. He may also delay signing it, if we should request it and he should agree with the request. Is that correct?

Mr. STAMM. That would be his option.

The CHAIRMAN. And there is an existing contract now?

Mr. STAMM. Yes, sir.

The CHAIRMAN. And this is really a brand new contract to substitute for the old contract? Is that correct?

Mr. STAMM. That is correct.

The CHAIRMAN. So that, if there were a delay of a month, 3 months, 4 months, 5 months, or what have you, there is still an existing contract and that would not be affected?

Mr. STAMM. That is correct.

The CHAIRMAN. Thank you very much. We appreciate your taking the time to appear before the committee. Your testimony has been informative. I assume that you would be willing, if we have some other questions, to respond to them. I might say that if at any stage you believe that it is in the interest of the Department to respond to any testimony, or criticism that may be made of the Department in hearings here, it has always been our policy to permit anyone to respond to it. We would not want anything standing in the record that was critical if the person or agency criticized desired to make a response. If you, in following the hearings, notice anything to which you would like to respond in writing or otherwise, you are welcome to do so. Later on when we have developed a better understanding, we may want to invite you to come back to respond to some more questions.

Mr. STAMM. We are at your disposal. We will respond at any time.

Senator HASKELL. I think it would be particularly helpful, particularly from your end, if you could respond to the testimony of Mr. Weiman because that was the most critical of the Department. I think it would be helpful for us to have a complete record and to get your specific response to that particular testimony. I think that it would help the Department.

Mr. STAMM. If that is a request, then we will.

Senator HASKELL. That is a request.

Mr. STAMM. We will do so.

The CHAIRMAN. I think it would be good for the record to have your viewpoint on it. I realize it puts some additional burden upon, maybe, Mr. Dauber, but you do not have to worry about him. He will help you do the work. You have plenty of time. The record will be open.

Mr. STAMM. I take it, Mr. Haskell, you are asking us to reply in writing for the record.

Senator HASKELL. That is correct.

The CHAIRMAN. Or, if it is simpler and you desire at some future date to come over and have your representative come over and respond, you can reply orally. Either way.[1]

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

Thank you very much, gentlemen.

Our next two witnesses we will hear together. The Honorable Edward Weinberg, formerly Solicitor of the U.S. Department of the Interior, and the Honorable Stewart Udall, formerly Secretary of the Interior. I apologize for having required you two busy gentlemen to wait so long to testify. I also apologize to all succeeding witnesses who will have waited a longer period.

Gentlemen, you have prepared statements?

STATEMENT OF HON. EDWARD WEINBERG, FORMERLY SOLICITOR, U.S. DEPARTMENT OF THE INTERIOR, DUNCAN, BROWN, WEINBERG & PALMER, WASHINGTON, D.C. AND HON. STEWART L. UDALL, FORMERLY SECRETARY OF THE INTERIOR, OVERVIEW CORP., McLEAN, VA.

Mr. Udall. Senator, Ed has a statement and I do not. I apologize for that. I was too busy. I have a few comments, but I cannot come back this afternoon. That is my problem.

The Chairman. I will run these hearings right straight through until we finish them. It sometimes bothers the witnesses, but it does not bother me because I do not eat lunch. Go ahead.

You can present your testimony in any way you want to.

Mr. Weinberg. I would like to read my statement, Senator Nelson.

The Chairman. Fine, if you wish to elaborate on it, or any part of it at any time, just go ahead.

Mr. Weinberg. I am honored by the opportunity to appear before this joint hearing at your request and Senator Haskell's request. Since late February 1969, I have been engaged in the private practice of law in Washington, D.C. Prior thereto, commencing in January of 1944, I served in various capacities on the legal staff of the Bureau of Reclamation and, when the legal staffs of the various bureaus of the Department of Interior were consolidated into a single office of the solicitor in 1954, I served in various capacities in that office. From 1954 until 1963, I served in the Division of Water and Power of the Office of the Solicitor as an Assistant Solicitor, and later as the Associate Solicitor in charge of that division. That is the Division that Mr. Garner now holds. The principal responsibility of the Division of Water and Power was to serve as counsel for the Bureau of Reclamation.

In 1963, I became the Deputy Solicitor of the Department and in the spring of 1968, President Johnson nominated me, and the Senate confirmed my nomination, as Solicitor of the Department. Throughout my 25-year career in the Department of the Interior, I was directly involved with the Bureau of Reclamation. In appearing here today I should like the record to show that I have not, since leaving the Government service, represented any client on any matter involving excess lands on Bureau of Reclamation or other Federal projects.

Commencing in the late 1950's, excess land matters affecting the Central Valley project received increasing attention within the Bureau of Reclamation and the Department of the Interior. This intensification was generated initially by authorization of the San Luis unit by Public Law 86-488 in June of 1960. The San Luis unit includes the lands served by the Westlands Water District. The physical features of the San Luis unit include the San Luis dam and canal which serves both the Federal San Luis unit and the State of California water plan.

A second reason for the intensification of attention to excess land matters in the Central Valley project was the negotiation of repayment and water service contracts with irrigation districts which included excess land provisions consistent with the requirements laid down by the Congress in section 46 of the Omnibus Adjustment Act of May 25, 1926.

That 1926 law constitutes the latest expression by the Congress of general reclamation law on the subject of excess lands.

Mr. Stamm went into requirements of section 46 of the 1926 law and I have nothing to add concerning his summary of that act.

The Central Valley project in California is, by and large, what is known in reclamation parlance as a supplemental water supply project. That is to say, the lands included within the project have in many instances, a source of water supply antedating the Federal reclamation works. In some cases, this water supply is a surface supply and in other cases that water supply is obtained by pumping from the underground. The existence of these nonproject supplies of water have complicated both the determination of the so-called preproject values of excess lands for recordable contract purposes and the question of determining whether and to what extent excess lands are receiving project water as distinguished from the other available supplies. These complications themselves give rise to difficult questions of administration as well as of law.

And I believe that Mr. Stamm testified that some 24 days were spent by Bureau of Reclamation personnel in investigations on the San Luis unit and I assume that those investigations are to make sure that project water is not going onto land that is not under recordable contract.

The administration of the excess land laws in the Central Valley project have been further complicated by the understandable tendency on the part of excess-land owners to work out contractual arrangements which, on the one hand, could be said to bring their excess holdings into compliance with section 46 so that they can receive a project water supply, and on the other hand to provide for their sale or other transfer, again hopefully in compliance with section 46, to new holders in such a way as to continue the large-scale farming operations practiced by the original excess owner or to retain ownership within that owner's family or business associates, or both.

This desire leads to many complex arrangements which are presented to the Office of the Solicitor for review for consistency with the requirements of section 46 and of the water delivery contracts. I examined many such arrangements and was responsible, in my capacity as Associate Solicitor, Deputy Solicitor, and Solicitor, for the legal work of other attorneys who examined such arrangements during my tenure in the Department. The results of the examinations during my tenure are included in the annotations set out in "Federal Reclamation and Related Laws Annotated" published by the Department of the Interior in 1972.

I understand your committees have already been informed concerning some of the excess land arrangements entered into for lands served by the Westlands Water District. In at least one instance, such arrangements have been the subject of indictments handed down by a Federal grand jury in California. Without going into the specifics of such cases, and of course, without offering any judgment as to whether or not the arrangements included in the indictments are in fact criminal, I think it can safely be said that they go far beyond what was contemplated and do not reflect what we in the Department of the Interior always considered was the purpose intended to be served by the excess land law.

Mr. Chairman, I have personally made an extensive study of the legislative history of the excess land provisions of all Federal reclamation laws, beginning with the first agitation for the passage of such legislation which took place in the latter part of the 19th century, that had up to the time that I left the Department of the Interior.

An examination of the debates on the floor of the Congress when it enacted the original Federal reclamation law in 1902 and when it made the first substantial revision of the excess land laws in 1914, can leave no doubt that the 160-acre limitation was intended by the Congress as a land reform measure and that it was considered to be an essential element of the Federal reclamation program.

The CHAIRMAN. Was there any doubt as to whether it should apply not only to public lands but to privately held lands with the beneficiaries of reclamation projects?

Mr. WEINBERG. It was well known in the 1902 debates that there were private lands that could be served by reclamation works, and the framers of the act were at pains to require a compliance with excess land laws by the private owners. They were not simply concerned with subdividing public lands. In fact, they had hopes that many of these private lands would be subdivided by the owners because they would receive water from reclamation projects.

The CHAIRMAN. You will recall I read to the Commissioner of the Bureau the testimony of Assistant Secretary Holum before the committee in 1966. Did he summarize, in your judgment, the philosophy expressed in the debates over the history, the objective that was aimed at in this legislation?

Mr. WEINBERG. Yes; he did. In fact, President Theodore Roosevelt in calling for the passage of the reclamation law called it a homebuilding law and said that homebuilding is in effect a synonym for reclamation. The debates on the 1902 act show the opposition of the framers of that act to the hacienda system which developed in Mexico. There can be no doubt in anybody's mind that what they were talking about were homes for people to live on, on the land. And the same thing happened again in 1914.

The original reclamation law turned out to have quite a defect in it in terms of the law and a defect which apparently was not successfully cured by regulation. There was not at that time any control over the terms upon which the private landowners offered their land for sale. The reclamation law provided that the farmer had to pay off the Government's charges in 10 years. The farmers who in many instances had purchased the land from the excess owner at very high prices found that they could not also pay the Government's charges for construction because of the onerous terms exacted by the private landowners from whom they bought the land.

The **Chairman.** I will have to recess for 10 minutes to answer that final bell on rollcall votes. So, we will recess for about 10 minutes.

[A brief recess was taken.]

The **Chairman.** We will resume the hearings.

Go ahead, Mr. Weinberg, you were at what place in your testimony?

Mr. **Weinberg.** I think I was at about the top of page 5 of my statement. I had made some comments about the conditions that had led Congress to amend the excess land laws of 1914 because of difficulties that had been experienced.

Throughout its entire history, the Bureau of Reclamation has had to grapple with administration of the excess land laws. Administration has proven to be very difficult for a number of reasons.

One of the difficulties is that by their very nature, the laws have been written in general terms, leaving much to be spelled out through administrative regulations or contractual provisions. Attempts to fill out the requirements of the 1926 act through regulations have been minimal.

In my opinion, significant improvements could be made in achieving the Congress' objective and administering the excess land laws by a greater reliance upon regulations. By the development of regulations through public rulemaking procedures, the Secretary and the Bureau of Reclamation could have the benefit of formalized expressions of views and concepts, and equally important, both the Bureau of Reclamation and affected landowners could be informed in advance as to the parameters of excess land requirements rather than leaving such matters, as they now largely are left, to be hammered out in negotiations with individual water districts.

By regulations, also, there could be established a systematic means for the examination and evaluation of disposal arrangements, the most important element in the excess land picture. By regulations, the Department could require disclosures concerning financial and other arrangements between the disposing owner and his prospective grantees.

There are, however, difficulties of a substantial administrative nature which have inhibited both the formulation of regulations and the administration of excess land matters.

There can be no question but that the process, to be effectively carried through, would require considerable manpower and the expenditure of funds. I would be less than candid with the committees if I did not acknowledge that both within the executive branch and in the Congress, there has been less than a burning desire to provide the staffing and funds necessary to do an effective job.

When I was Deputy Solicitor, we began some attempts to draft regulations but the job was so large that we just did not have the staff to do justice to it and had to put it aside because there were other demands on our time which we had to consider more pressing. And thus, I think, an opportunity was lost for want of staffing and funding.

This brings me to a second difficulty in administration. The fact of the matter is that administration of the excess land laws has not been regarded, by and large, as a principal mission of the Bureau of Reclamation or of the Department of the Interior and its Solicitor's

Office. And in saying this I intend no reflection at all upon Mr. Dauber who I have known for many years and other people on Interior's staff, but the fact of the matter is that the staff is too small and the staff does not have sufficient support. They cannot engage in the kind of digging that is required because there are too many other demands on their time and there has not been the interest, either within or without the Department, in Government circles to provide the staffing and the funding that is necessary for a thorough job.

The Department of the Interior and the Bureau of Reclamation and the Congress as well, have, by and large, regarded the mission of the Bureau of Reclamation as the construction and operation of water supply facilities for the purpose of improving the general economy of the areas affected, and of providing the national economy with increased supplies of food and fiber. Administration of the excess land laws, which consists basically of telling people that they must change their ways and which necessarily involves time-consuming and often burdensome procedures, has been relegated to a secondary role. I think this regrettable, but nevertheless it is a fact.

And it is a fact that has had considerable influence on the effectiveness with which the Bureau of Reclamation has been able to discharge the congressional mandates of 1902, 1914, and 1926.

And I may say, Mr. Chairman, that the amendments of 1914 and 1926 came about after extensive congressional investigations because there was an aroused concern in Congress. The reclamation program was faltering between 1910 and 1912 and 1914 and again in the 1920's. The reclamation program almost fell apart after World War I and there was, therefore, a congressional concern, not only on the part of Congress, but on the part of the farming community in the West that led to changes.

A third difficulty is that there has not been a substantial public constituency, ready, able, and willing to bring public pressure upon both the Department of the Interior and the Congress to improve administration and enforcement of the excess land laws. It is a fact of life that Congress and administrators respond to pressures from an aroused public. Indeed, that concept is at the very core of our philosophy of Government. And it is equally a fact that the absence of such pressures will be reflected in the attention Government gives to the particular issue involved.

Another factor which has had a considerable effect, in my judgment, upon the inability of the reclamation program to fulfill the objectives inherent in the excess land laws has been the lack of a source of financing for true family farmers who wish to acquire excess reclamation project lands and to operate them as small family farms. I personally put great importance upon this particular feature. If prospective purchasers are unable to fund purchases and arrangements which would enable viable small operations, there is no way that an effective disposal program can be carried out.

Notwithstanding the difficulties of administration, and since I was intimately involved in that administration for a considerable period of time, I must acknowledge my own share in the ability of the Department of the Interior to get an effective handle on the problem. I remain convinced that Congress' expressed objectives in the excess land laws are sound. I offer the hope that through hearings such as those now being conducted by your committees and through a growing dissatisfaction on the part of the public with the concept that bigness is automatically goodness, a climate of opinion and of interest can be established which will facilitate the achievement of Congress' objectives.

Mr. Chairman, I would be glad to answer any questions which you may have.

The Chairman. Thank you, Mr. Weinberg.

[The prepared statement of Mr. Weinberg follows:]

STATEMENT OF EDWARD WEINBERG, FORMERLY THE SOLICITOR, DEPARTMENT OF THE INTERIOR, BEFORE JOINT HEARINGS OF THE SENATE SMALL BUSINESS COMMITTEE AND THE SENATE INTERIOR COMMITTEE, ON THE EFFECT OF FEDERAL LAW AND POLICY ON FAMILY FARMING, JULY 22, 1975.

Mr. Chairman and Members of the Committee.

My name is Edward Weinberg. I am honored by the opportunity to appear before this joint hearing at the request of Senator Haskell and Senator Nelson.

Since late February, 1969, I have been engaged in the private practice of law in Washington, D.C. Prior thereto, commencing in January of 1944, I served in various capacities on the legal staff of the Bureau of Reclamation and, when the legal staffs of the various bureaus of the Department of Interior were consolidated into a single Office of the Solicitor in 1954, I served in various capacities in that office. From 1954 until 1963, I served in the Division of Water and Power of the Office of the Solicitor as an Assistant Solicitor, and later as the Associate Solicitor in charge of that division. The principal responsibility of the Division of Water and Power was to serve as counsel for the Bureau of Reclamation. In 1963 I became the Deputy Solicitor of the Department and in the spring of 1968, President Johnson nominated me, and the Senate confirmed my nomination, as Solicitor of the Department. Throughout my 25 year career in the Department of the Interior, I was directly involved with the Bureau of Reclamation. In appearing here today I should like the record to show that I have not, since leaving the government service, represented any client on any matter involving excess lands on Bureau of Reclamation or other Federal Projects.

Commencing in the late 1950's, excess land matters affecting the Central Valley Project received increasing attention within the Bureau of Reclamation and the Department of Interior. This intensification was generated initially by authorization of the San Luis Unit by Public Law 86-488 in June of 1960. The San Luis Unit includes the lands served by the Westlands Water District. The physical features of the San Luis Unit include the San Luis Dam and Canal which serves both the Federal San Luis Unit and the State of California Water Plan.

A second reason for the intensification of attention to excess land matters in the Central Valley Project was the negotiation of repayment and water service contracts with irrigation districts which included excess land provisions consistent with the requirements laid down by the Congress in Section 46 of the Omnibus Adjustment Act of May 25, 1926.

That 1926 law constitutes the latest expression by the Congress of general reclamation law on the subject of excess lands. In brief summary, Section 46 prohibits the delivery of water on any new project or division of a project to any irrigation district until a contract has been entered into with the irrigation district involved providing, among other things, that all irrigable land held in private ownership by any one owner in excess of 160 acres, is to be appraised in a manner approved by the Secretary of the Interior and the sale price thereof fixed by the Secretary on the basis of its actual, bonafide value as of the date of appraisal without reference to any increment in value conferred by the construction of the irrigation facilities. Irrigable lands held by private ownership by any one owner in excess of 160 irrigable acres are usually referred to as the landowner's "excess lands." Section 46 further requires that with respect to such excess lands that they shall not receive water if the owners refuse to execute what the Act refers to as "valid recordable contracts" with the Secretary providing for their sale at prices not to exceed those fixed by the Secretary.

The Central Valley Project in California is, by and large, what is known in reclamation parlance as a "supplemental water supply" project. That is to say, the lands included within the project have in many instances, a source of water supply antedating the Federal reclamation works. In some cases, this water supply is a surface supply and in other cases that water supply is obtained by pumping from the underground. The existence of these non-project supplies of water have complicated both the determination of the so-called pre-project values of excess lands for recordable contract purposes and the question of determining whether and to what extent excess lands are receiving project water as distinguished from the other available supplies. These complications themselves give rise to difficult questions of administration as well as of law.

The administration of the excess land laws in the Central Valley Project have been further complicated by the understandable tendency on the part of excess land owners to work out contractual arrangements which, on the one hand, could be said to bring their excess holdings into compliance with Section 46 so that they can receive a project water supply, and on the other hand to provide for their sale or other transfer, again hopefully in compliance with Section 46, to new holders in such a way as to continue the large scale farming operations practiced by the original excess owner or to retain ownership within that owner's family or business associates, or both.

This desire leads to many complex arrangements which are presented to the Office of the Solicitor for review for consistency with the requirements of Section 46 and of the water delivery contracts. I examined many such arrangements and was responsible, in my capacity as Associate Solicitor, Deputy Solicitor and Solicitor, for the legal work of other attorneys who examined such arrangements during my tenure in the Department. The results of the examinations during my tenure are included in the annotations set out in "Federal Reclamation and Related Laws Annotated" published by the Department of the Interior in 1972.

I understand your committees have already been informed concerning some of the excess land arrangements entered into for lands served by the Westlands Water District. In at least one instance such arrangements have been the subject of indictments handed down by a Federal Grand Jury in California. Without going into the specifics of such cases and, of course, without offering any judgment as to whether or not the arrangements included in the indictments are in fact criminal, I think it can safely be said that they go far beyond what was contemplated and do not reflect what we in the Department of the Interior always considered was the purpose intended to be served by the excess land law.

An examination of the debates on the floor of the Congress when it enacted the original Federal Reclamation Law in 1902 and when it made the first substantial revision of the excess land laws in 1914, can leave no doubt that the 160 acre limitation was intended by the Congress as a land reform measure and that it was considered to be an essential element of the Federal reclamation program.

Throughout its entire history, the Bureau of Reclamation has had to grapple with administration of the excess land laws. Administration has proven to be very difficult for a number of reasons.

One of the difficulties is that by their very nature, the laws have been written in general terms, leaving much to be spelled out through administrative regulations or contractual provisions. Attempts to fill out the requirements of the 1926 Act through regulations have been minimal.

In my opinion, significant improvements could be made in achieving the Congress' objective and administering the excess land laws by a greater reliance upon regulations. By the development of regulations through public rule making procedures, the Secretary and the Bureau of Reclamation could have the benefit of formalized expressions of views and concepts and, equally important, both the Bureau of Reclamation and affected land owners could be informed in advance as to the parameters of excess land requirements rather than leaving such matters, as they now largely are left, to be hammered out in negotiations with individual water districts.

By regulations, also, there could be established a systematic means for the examination and evaluation of disposal arrangements, the most important element in the excess land picture. By regulations the Department could require disclosures concerning financial and other arrangements between the disposing owner and his prospective grantees.

There are, however, difficulties of a substantial administrative nature which have inhibited both the formulation of regulations and the administration of excess land matters.

There can be no question but that the process, to be effectively carried through, would require considerable manpower and the expenditure of funds. I would be less than candid with the committees if I did not acknowledge that both within the executive branch and in the Congress there has been less than a burning desire to provide the staffing and funds necessary to do an effective job.

This brings me to a second difficulty in administration. The fact of the matter is that administration of the excess land laws has not been regarded, by and large, as a principal mission of the Bureau of Reclamation or of the Department of the Interior and its Solicitor's Office. The Department of the Interior and the Bureau of Reclamation and the Congress as well, have, by and large, regarded the mission of the Bureau of Reclamation as the construction and operation of water supply facilities for the purpose of improving the general economy of the areas affected, and of providing the national economy with increased supplies of food and fiber. Administration of the excess land laws, which consists basically of telling people that they must change their ways and which necessarily involves time consuming and often burdensome procedures, has been relegated to a secondary role. I think this regretable, but nevertheless it is a fact. And it is a fact that has had considerable influence on the effectiveness with which the Bureau of Reclamation has been able to discharge the Congressional mandates of 1902, 1914 and 1926.

A third difficulty is that there has not been a substantial public constituency ready, able and willing to bring public pressure upon both the Department of the Interior and the Congress to improve administration and enforcement of the excess land laws. It is a fact of life that Congress and administrators respond to pressures from an aroused public. Indeed, that concept is at the very core of our philosophy of government. And it is equally a fact that the absence of such pressures will be reflected in the attention government gives to the particular issue involved.

Another factor which has had a considerable effect, in my judgment, upon the inability of the reclamation program to fulfill the objectives inherent in the excess land laws has been the lack of a source of financing for true family farmers who wish to acquire excess reclamation project lands and to operate them as small family farms. I personally put great importance upon this particular feature. If prospective purchasers are unable to fund purchases and arrangements which would enable viable small operations, there is no way that an effective disposal program can be carried out.

Notwithstanding the difficulties of administration (and since I was intimately involved in that administration for a considerable period of time, I must acknowledge my own share in the inability of the Department of the Interior to get an effective handle on the problem), I remain convinced that Congress' expressed objectives in the excess land laws are sound. I offer the hope that through hearings such as those now being conducted by your committees and through a growing dissatisfaction on the part of the public with the concept that bigness is automatically goodness, a climate of opinion and of interest can be established which will facilitate the achievement of Congress' objectives.

That concludes my statement, Mr. Chairman, and I will be glad to answer, as best I can, whatever questions the committee may wish to put to me.

The CHAIRMAN. I think that we will hear from Mr. Udall and then we will have some questions for you.

Mr. UDALL. Mr. Chairman, I think that it is appropriate that I appear with Mr. Weinberg because our statements support each other and I want to make a rather personal statement about this particular project and the perspective that I have on it at this time because 15 years ago, as a Congressman, I sat side by side on the committee with Congressman Sisk. I helped write the San Luis legislation. I voted for it.

Later, as Secretary of the Interior, I supported this project. I testified on behalf of the budget. I helped resist the argument that the Senator from Wisconsin, Senator Morse, Senator Douglas, and others made. I listened to Dr. Paul Taylor and Father Vizzard who was here, and others who felt that we were doing something that was unwise, that it would not work. And I look back now on that whole experience and I must say that I was saddened and shocked and not all that surprised by the presentations that I have read the last few days about what the National Farmers Union and others have found about the way the program is working.

I want to say, however, that I think that those of us who supported this project and went along with it did so in good faith. I know the chairman himself quoted the statement that Congressman Sisk made. I was fascinated myself to reread it, about the picture he was presenting and what this would do for the valley in terms of creating new communities, new farmers, and so on. And the Congressman was sincere. I know he believed in it at that time. The rest of us who defended reclamation and this project, I believe, were sincere. We thought it would work. And I think we are seeing now, as we come to the culmination, not only the shortcomings of the reclamation program when it comes to the excess land aspect of that program, but the missing elements that could make true land reform work.

I was fascinated to sit this morning and read and hear the presentation by Gil Stamm from the Bureau of Reclamation. It was curious that although this is a hearing on family farms, they did not even mention family farms; not a word about family farms in the statement. The Reclamation Act was a land reform program, an historic program. It fits in with the Homestead Act as one of the great land reform laws of this country. In many of the projects that have been built in the western part of the States the land reform worked and this was a proud hour for the country and good for the whole Nation.

But when you brought the family farm concept and the 160-acre limitation into the Central Valley of California and applied it to these excess land situations, you were dealing with a different situation where inevitably there would be insoluble problems or very difficult problems. This is what the skeptics said back in the early sixties. Those who objected to this project, including Members of the Senate, said that this would give benefits to the owners of enormous tracts of land, and the land reform provisions would not work because the owners would not allow them to work or the Bureau of Reclamation would not enforce them. All of us who defended the project and went along with it felt somehow that it would work.

It is clear, if the evidence that has been presented here is sound, that it is not working. I think that this ought to be very disturbing to the

Congress. It is disturbing to me. It is clear too that the Bureau of Reclamation does not have the tools to make a family farm program work. It is true that they have the feeling that they do not even have a charter in a situation like this to do something to help people who come here to Washington to testify. Apparently they are organized California farmers who want to get on the land and there is no way that we can help them get on the land.

Both Senator Laxalt and Senator Haskell this morning asked the right questions, getting to the heart of the matter. Is there a way under the present law that we can make it work so that bona fide farmers who would like to farm this land can farm it? I would like to say to you and to the Congress that it seems to me we have a situation here where the only way we can make it work, and the only way we can change the whole picture so that we can make the family farm a reality in this beautiful valley, one of the richest agricultural areas in the United States, is to make the decisions that were made in the past a reality and not a sham.

The fact of the matter is, as I look back over my service in Washington as a Congressman 20 years ago, we paid lip service to the family farm, but we really worshiped at the altar of agribusiness. That is the way I read the last 20 years and I suspect if you were bringing the Reclamation Act of 1902 before the Congress today you would have people like Mr. Butz who would appear and say that this was unrealistic and uneconomical and was not needed; that what American agriculture is now all about is efficiency and economies of scale and all of that sort of thing. If that is not true to our agricultural policy, why then, of course, the 160-acre limitation and the family farm and the ideals of the Reclamation Act have been outdated for several decades.

If the Congress wants to pass laws, new laws, I urge the committees to inquire into the possibility that a program could be developed whereby loans of the type mentioned here this morning could be provided. You could have arrangements where certain types of cooperatives under certain limitations were encouraged. If there are in fact, and I gather there are, tens and hundreds of people in the Central Valley of California who live there now or would like to live there and would like to own their own farms and farm their own farms, as the chairman himself has described, this is possible.

If we do not do something, investors from abroad, such as maybe our friendly OPEC countries, will decide that this is where they want to spend some of their money. Instead of the San Luis project we could call it the OPEC project.

But I just have the feeling, as I look at where this project is poised right now, that unless some actions are taken to make it possible for farmers who want farms to get them, that all of us who carried the mail for this project over the years have participated in a sham. That is the only way I can read my own activity in the past because I said, and I believed at various times, that if this project was built we would end up with small farms and small farmers. If it is not going to work out that way let us either be honest with ourselves or let it go on and play its way out in a way that it has already begun. It is not what we talked about, it is not what I think the Members of Congress contemplated.

When this project was up for authorization in 1959 and 1960, if you had said that we were doing it so that the beneficiaries would be the types of people—or the types of groups—who are purchasing Mr. Giffen's land, or that we were going to build this project because in California there was some wonderful land owned by the railroad and the Kern County Land Co. and other big landowners and we wanted to encourage agriculture production, you would not have had a vote on the committee on which I sat.

I do not think that Bernie Sisk would have voted for such a program. So, we have come full circle and there are some very serious and tough questions. I think it essentially asks Congress whether it is too late, or whether there is still time to take some significant action, to make the ideals and ideas of the reclamation program, that have served the country so well in other areas, meaningful in the Central Valley.

That is all I have to say, Mr. Chairman.

The CHAIRMAN. Thank you very much for your testimony.

You both heard the testimony of Mr. Dauber and Commissioner Stamm on their interpretation of the law. As I said to them, I am not qualified to quarrel with anybody who is a student of the reclamation law because I am not one. It is too general a question to ask either or both of you whether you agree with their interpretation of the law as they stated it?

Mr. WEINBERG. Senator Nelson, I believe there is a difference in what the Secretary can permit as being within the outer boundaries of reclamation law and what he can require by regulation to establish certain requirements be met. For example, he could, by regulation, require that each recordable contract shall include a provision by which the owner agreed that the land shall first be offered to people meeting certain qualifications.

I know of no holding by the Solicitor that that could not be done by regulation. After all, as I said, and as Commissioner Stamm said, the excess land laws are written in generalities. They are part of a vast complex of law. The reclamation laws give the Secretary the right to prescribe rules and regulations to implement its objectives. And I think one of the difficulties is that these examinations of sales that have been conducted have been conducted in the context of whether or not a particular situation does or does not fall within the bare bones of the law. They have not been conducted in a situation in which some regulations had been devised which represents the translation by the Secretary of the Interior into a policy which is within the law. Such a policy might not be the only policy that would be valid under the law, but nevertheless, such a specific policy would be binding because it had been prescribed by regulation.

So, I think perhaps, I would say that it depends upon the perspective from which one is looking at the question. If the question is, could regulations be devised that would reflect policies directed toward facilitating the family-sized farm, the family farm as such, I do not think there is anything in the reclamation law that precludes that. I will say, as I said in my statement, it is going to be a tough job. It is going to take funding and it is going to take people who can devote time to this and it is going to take a desire to support them. But I do not think that those things are prohibited by reclamation law.

The CHAIRMAN. Are there any statutes that you would advocate be modified or changed?

Mr. WEINBERG. Well, I do agree with Commissioner Stamm that there is certainly a great void in the availability of credit. The reclamation law provides what amounts to interest-free loans for part of the cost of providing reclamation facilities to land, and it provides for the forgiveness of other parts of the cost. But there is no comparable provision for interest-free loans to people who want to buy the land. That provision is not there. And I think that certainly if Congress intends to reflect the philosophy which, as Stew has pointed out, motivated the original objective; if Congress intends to invigorate that objective, one of the best ways to do it is to enact some legislation which provides for a realistic credit arrangement.

Mr. UDALL. Senator, may I state my feelings about this?

It is very clear that the Bureau of Reclamation is understaffed. I am not criticizing Commissioner Stamm or the current people, but I think the whole excess land problem has been one where the Bureau of Reclamation has never felt it had a handle over the years. It has not had any zest. I think that this is unfortunate for the land reform aspect of projects that involve excess lands.

It also can be said, as I said today, that as long as there are no loan programs and other laws where they could actively assist people who want to get on the land that they feel that they have only a limited role to play. We are talking about an area roughly the size of the State of Rhode Island. Much of the land still remains to be divested by the large owners. There still is an opportunity—an historic opportunity—for Congress to say that the old law is not adequate so we are going to enact special legislation that would ensure that—to the degree that it is possible—modest size family type farms are encouraged in this area of California.

There is nothing magic about the 160 acres. It might be larger or smaller. You might even in some instances authorize co-ops or cooperative arrangements in some instances. But, at the present time, I think what the Bureau of Reclamation people are saying is, well we do not have much authority to do anything. We do not have much control over it.

They hand papers to us and we look at them and we approve or we do not approve. It shows that they are either understaffed or not doing their job, when they approved, apparently, one of the transactions that people are indicted later on for.

The CHAIRMAN. I do not think that is their problem. If somebody perjures himself or lies, or is charged with that, I do not think you can blame the Department. But they defended the proposition that they did not have the authority to require somebody to sell to a farmer, or to prohibit the design of a group-buying situation of the kind that we discussed.

Mr. WEINBERG. Those things have never been prohibited by regulation, and I am not prepared to say that a regulation would be invalid if it were promulgated.

The CHAIRMAN. You think that such a regulation might be in compliance with the law?

Mr. WEINBERG. I think so, yes.

The CHAIRMAN. Well, I appreciate your taking the time to come and give your very valuable testimony. We are going to have to move on because we have four more witnesses. Thank you very much, gentlemen.

Our next witness is Mr. Bulbulian, president of the National Land for People in Sanger, Calif. The committee is pleased to have you here today, and we are sorry you had to wait so long.

Do you have a prepared statement?

STATEMENT OF BERGE BULBULIAN, PRESIDENT, NATIONAL LAND FOR PEOPLE

Mr. **Bulbulian.** Yes, I do.

The **Chairman.** It will be printed in full in the record. You may present it however you desire.

Mr. **Bulbulian.** First of all, I would like to thank you for inviting me here. I am appearing here today for the purpose of opposing the approval of the Westlands contract as it is presently written. I will make no attempt to discuss the contract in detail, as that either has been done or will be done by people who are better informed on that subject than I am.

I am in opposition to that contract because if the provisions of that contract are carried out, there will be no opportunity to develop the land in the Westlands Water District in such a way as to provide the greatest good for the greatest number.

The contract provides, contrary to reclamation law, the sale of excess land as excess land. It permits excess landowners to use project water without signing recordable contracts, and it permits repayment to start after the delivery of water. In short, it legislates by contract.

The contract must be changed so that the benefits of public money go to the public and not to a handful of speculators. Part of the rationale for developing the San Luis water project was that the area to be irrigated would attract large numbers of people and that family farming would be developed in an area where there was none. Thus far no family farms have appeared in that area, and it is highly unlikely that any will appear unless you take forthright action to see that it does happen.

My primary purpose in appearing before you is to speak in support of the family farm. It is a widely held view that the family farm is dying. Let me assure you that the reports of the death of the family farm are highly exaggerated. My family farms 150 acres of grapes in Fresno County in what is commonly known as the East Side as differentiated from the West Side where the Westlands Water District is located.

In my area there are many small farms and in fact our farm is somewhate larger than the average which to the best of my knowledge is around 40 acres. I am in partnership with my father, who is almost 83 years old and still works full time on the farm so, actually, two families live on the income from the 150 acres.

We live in modern houses, have no mortgage on our property, and finance our own crops. With 150 acres we are very close to the optimum acreage for grapes. We can afford to buy any equipment built which can be used in vineyards both from the standpoint of securing the capital, and from the standpoint of getting a proper return on the investment. We are highly mechanized with two trucks, jeep, four tractors, forklift, numerous trailers and cultivation and shop equipment of all kinds.

Our investment in equipment increases each year. Not once since 1929 have we operated in the red. Some years the return was not sufficient for the investment and our labor, but that is the nature of farming. Over the long run we have earned a good living, and we feel that the opportunities we have had should be afforded to as many people as desire the opportunity.

My father came to this country in 1920 to escape the attempted genocide of the Armenian people by Turkey. He had no money and little education and of course spoke no English. My wife and I are also immigrants. My mother was illiterate and gave birth to me in a barn converted into living quarters in a slum in Mexicali, Mexico.

In one generation we were able to go from illiteracy to a university degree, from poverty to plenty. My wife and I have three daughters, two of whom are university graduate students and the third an undergraduate. The family farm system, or better yet, the free enterprise system, has been good to us, and I would like to see those same opportunities granted to all Americans.

Most Americans believe that the free enterprise system implies the right to get bigger, but prior to that right has to be the right to get started in the first place. It then becomes necessary to curb unlimited growth if that growth is not in the public interest. Often growth at the top level is encouraged by laws which benefit only the privileged and the rich and usually is encouraged by massive infusions of public money as is the case in the Westlands Water District. Much of the wealth amassed by landowners in that district has been due to subsidies of various kinds.

It is time that those who profess great faith in the free enterprise system, a faith which, at least vocally has a religious fervor, put their professed beliefs on the line. In too much of America today free enterprise has been replaced by controlled enterprise. A handful of people and corporations own the bulk of the land in the Westlands Water District. They employ all the political and economic muscle they have, take advantage of every tax loophole, every subsidy, and when and if they sell their land, determine to whom and for how much, contrary to the letter and spirit of the reclamation law.

For too long we have heard that these large corporate farms are good for the future of America because they and only they can produce enough food at prices which we can afford to pay. This has been repeated over and over, and it has been all too easy for many Americans to believe that bigness is commensurate with greatness. For many years I have been saying that the economically viable family farm is a more efficient source of food than is the large corporate farm. For a long time I was a voice in the wilderness, and often many of my fellow farmers disagreed with me.

Recently, however, many others have joined me in this assertion. I have even heard the Secretary of Agriculture make a "motherhood and apple pie" statement about the family farm. The July issue of the National Geographic in an article entitled "Food, Will There Be Enough?" stated that the family farm is a better source of food because of the family farmer's greater attention to the details of farming.

The large corporate farm is better at capturing subsidies, evading taxes, and is generally more capable of farming the Government than it is at farming the land. It can, if it wishes, sell food for less because it has more to sell, not because it is more efficient. Efficiency is measured by comparing input with output. Even if the large corporate farms are more efficient, which they cannot be because of their absentee owners, migrant laborers, and their bureaucracy, their production is more expensive because of the social costs which must be paid by others.

The subsidies must be provided by the taxpayer. The workers displaced by corporate agriculture create a myriad of social problems which are almost impossible to solve. In short, the price the consumer pays for his food is not all paid at the supermarket.

And even if the large corporate farm can sell food for less, do you think it will when a handful of large vertically and horizontally integrated corporations control food production in this country? The best chance we have of producing food at reasonable prices is to have as many producers as possible.

Under the provisions of the Reclamation Act no one can receive more than enough water than is required for 160 acres. There is hardly an irrigated crop grown that cannot be grown efficiently on that acreage. And if 160 acres is not enough, then 320 certainly should do since a husband and wife can each own 160 acres. If that is not enough, then land can be bought in the name of children. In actual practice, families can and do own more than 160 acres so that the law is quite lenient and does permit efficiencies of scale.

I am in favor of land reform, but I do not propose it for the purpose of developing a subsistence type of farming. Subsistence farming may be a viable personal choice; it would be disaster as national policy. I propose land reform for the purpose of establishing economically and socially viable family farms. I propose that this be accomplished in central California by enforcing reclamation law with special emphasis on the 160-acre limitation and residency clause. The excess land should be priced realistically, taking into consideration market conditions and the provisions of the law. The Federal Government should provide money to buy the land and sell it to people who want to become family farmers with long-term, no-interest loans. The loans should carry no interest since the water projects are built by the Bureau of Reclamation under the same provisions. If we can provide Federal money with no interest for the rich, we should be able to do the same for the poor. Since many of these people will need assistance in becoming entrepreneurs, we should provide it much in the same manner that we provide it for foreign countries through the Peace Corps and other programs.

Several years ago I offered similar proposals to the Senate Migratory Labor Subcommittee, and at that time none of this was being implemented to the best of my knowledge. Presently, through the Comprehensive Employment and Training Act, CETA, The Fresno City-County Manpower Commission is funding two programs which are assisting 67 families in becoming farm owners instead of farm workers. These people have been given training and technical assistance and stipends until their crops come in. As chairman of the Citizens Advisory Council of the Manpower Commission, I have played a part in helping these people secure funding and have been involved in monitoring their activities. So far, the programs are highly successful and, hopefully, we can continue to fund these programs and others like them.

When I first became involved in these matters we talked of future family farmers in the abstract, but today we have people anxious and available. One of them will appear here today.

As a result of a recent article in the "Los Angeles Times" and "The Washington Post" about the Westlands matter, we at the National Land for People have received a number of letters from people who want to buy land in the Westlands Water District, not as speculators, but as people who want to live on and work the land. The opportunity to develop this area in a socially desirable manner is at hand. We have the laws necessary and the people who are willing and, indeed, anxious to become family farmers. It is up to you to give direction to this by first rejecting this contract and then proceeding to set up the necessary machinery that can convert this area into a highly productive and socially worthwhile community.

[The prepared statement of Mr. Bulbulian follows:]

Statement of:
Berge Bulbulian, President, National Land for People
2735 S. McCall Ave., Sanger, CA 93657 209-268-2740
Joint hearing, Senate Interior and Small Business Commettees
July 22, 1975

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The Chairman. Thank you very much for your very thoughtful statement, Mr. Bulbulian. You say there are 67 families being assisted under a CETA project of the Fresno City and County Manpower Commission?

Mr. Bulbulian. That is correct.

The Chairman. Do you know how many acres they are farming?

Mr. Bulbulian. No, I cannot give you the exact number. I know one project is 12 families, 12 or 13, and it has 40 acres, and the other project has quite a number of separate, smaller parcels, and I do not know the total acreage. It is not a large amount in terms of the acreage that we have been hearing about in the Westlands Water District, by any means. I think that, perhaps, the next person providing testimony can give you more accurate figures, which I should know, being on the Manpower Commission, but I do not know.

The Chairman. We will ask the next witness. What witness is going to testify to that?

Mr. Bulbulian. Mrs. de la Cruz.

The Chairman. And she is involved in the contract?

Mr. Bulbulian. She is one of the participants in the contract, yes.

The Chairman. I think you made a very good statement, and we appreciate your taking the time to come here from your busy work and give us the benefit of your testimony.

Mr. Bulbulian. Thank you. I might add, Senator, that I guess I could characterize myself as a full-time, self-employed laborer. I am not a dirt farmer with a Wall Street address; we actually live on the farm and work on it, and I take great pride in being a farmer.

The Chairman. We appreciate your comments on family farming. The fact is, in my own State, all studies indicate that the optimum size dairy farm is a modernly equipped family dairy farm, run by the family. They can outproduce and outmanage the much larger operations. I think that some of the economists in the Department of Agriculture are recognizing that there are various acreages necessary for a family to operate, but that the family farm is the most efficient operation.

Mr. Bulbulian. I am often asked by people who do not really understand farming, if it is possible any longer with the trends of present day agriculture to make it on a 160 acres, and I always have to smile because there are many, many people who are making it on less, and maybe they are broke and do not know it, but I doubt it. Most of my fellow farmers, my friends and neighbors, are living well. I am not going to say that it is a completely easy life. There are ups and downs in agriculture, and in my own aspect of farming, the grape industry, we are going to have some very serious problems, problems that I was able to foresee many years ago when I came to Washington to oppose certain provisions of the San Luis Act. I think some of those provisions are responsible for the extremely large acreages of grapevines that have been planted on the west side of the San Joaquin Valley, which we now have to compete with, and it looks like for the next 5 years we are going to have more wine than we have capacity for, even if we gave the grapes away, and it is going to be a period that is going to be very challenging. I do not look forward to it from the standpoint of losing money, but I do look forward to it from the standpoint of it being a great challenge, and I know we will survive. In fact, I will not only survive, I will prosper.

The **Chairman**. I thought they were telling us a year or two ago that there was going to be a shortage of wine.

Mr. **Bulbulian**. There was. We are producing it faster than people are drinking it.

The **Chairman**. I do not know whether I want to say that that is unfortunate or not. Thank you very much. We appreciate your testimony.

Our next witness is Ms. Jessie de la Cruz, a family farmer, from Fresno, Calif. The committee is very pleased to have you here today, and we appreciate your taking the time to come and testify.

STATEMENT OF JESSIE DE LA CRUZ, FAMILY FARMER, FRESNO, CALIF.

Ms. **de la Cruz**. It is a great honor for me to be here and addressing the Senators. It is something that I never dreamed of.

My name is Jessie de la Cruz, and I come from Fresno, Calif. I will give you an idea of what I am and what I have been through. My childhood history is born in California, raised by grandparents who had seven children of their own, migrant farmworkers in the State of California, living under tents beside river banks, out of cars, and going hungry and cold, not enough. I never slept in a bed as a child. I always slept on the floor. I never had a chair to sit on until I was about 20 years old. I was married in 1938. I raised a family of four boys and two girls. There was always time, while not expecting a child, to work in the fields along with my husband because his wages were not enough to support a family.

What I am telling you right now is not only my history, but all farmworkers have gone through this. Many of these farmworkers moved to the city slums. They lived along with all farmworkers at labor camps and when growers were asked to raise the wages of farmworkers to 75 cents an hour, they said they could not afford the camps anymore, so they tore them down after we asked them to please repair them so that we could live as human beings, one of these growers being Mr. Russell Giffen, the other being Mr. Anderson Crayton, and all of the big growers around in Fresno County.

I stated time and again that I measured Mr. Giffen's land by the inch because I worked with an 8-inch hoe 10 hours a day, getting $7.35 after deduction out of 10 hours of work. After I got home, I had to clean the house, do the cooking and prepare things for the next morning. All of this time going from place to place. In times we did not work because there was no work available, or we had finished working at one place and we were looking for another job at another ranch, so in the meantime we were using up the money that we had managed to save which was not enough just barely to buy gas to look for more work.

I lived in Huron for 15 years. At that time, when I was living there, we were told that a new big canal was being built and that this would open the door for the poor people, that it would better the city of Huron. It has worked in reverse. Right now Huron is rated among the highest in venereal disease, illegal drugs, illegal entrants from Mexico doing the work that local people should be doing, and local people are not hired because they are asking for more wages and besides the labor contractor hires illegals for about 3 or 4 months, and they keep a part of their money, to save, when they are ready to be taken back to Mexico, but what they do, in many instances, is call the border patrol and have them sent across the border losing the money that they earned, that the labor contractor keeps.

Another place that I feel is working against the poor people, the farmworkers, in Huron is something that happened recently. There is a man that has been working with the farmworkers, being a farmworker himself; he has helped through many social services all around Fresno County. He ran for city council. He had a petition of over half of the voting people in Huron where he lives, but the labor contractors and the businessmen voted against him, so in his place they named one of the sons of the so-called buyers of Giffen lands, Jim Lowe. What has Jim Lowe's son done for the farmworkers? Nothing, but what his father did. Exploit farmworkers, along with Giffen and the others.

When we asked for land, they tell us, why? Why should farmworkers want land? They are not farmers. But the true farmer is the one that works the land, and this is the farmworker, if it was not for the farmworker, there would not be any vegetables or fruits or anything on your table without the farmworkers. True, machinery is coming in and replacing many of the farmworkers, but there are still farmworkers there that are willing to work. Many of them are forced to go on welfare because they cannot find any work because machinery has taken over, and yet these same people that are getting these Government subsidies, the Department of Agriculture, and others, and some of the public citizens out there or the citizens of the community, are yelling to the high heavens that all of these people are on welfare. They have been forced to go on welfare, so when we asked a man, he said it cannot be done, a small farmer cannot do anything. In other words, they are asking me, why do you want meat when you can have potatoes and beans. That is what it amounts to.

I will tell you now about our project. As our fathers and grandfathers before us who were also farmworkers migrated to this country from Mexico, they always dreamed about owning some of the land that they worked, but wages being what they are they could never save enough money to buy this land. So, this dream was passed on to us. We never could do this either because the money was not there. So, I was the first one to start talking to people and asking them to attend some of the meetings that we were having. We got close to 200 families in about 3 months who wanted the land. So, it was publicized and some man came in from New York and he promised that he would have a festival for us, a musical festival, where he would raise millions of dollars so that we could buy this land. So, in the hopes of getting this land, we formed a committee and we talked to Mr. Giffen. We went to his office, and we told him that we were interested in buying the land, so he wanted to know, where was the money, did we have the money. He was asking a million dollars as a downpayment, which is quite a bit of land, but we were not interested in the machinery that he was throwing in along with the cotton gins that we would have no use for. We did not plan on planting cotton.

So, this group of farmworkers, if he (Giffen) had been willing to sit at the table with us and to discuss our problems and what he wanted, I am sure we could have arranged something, even we could have gone as far as to say, okay, we will plant the land, you give it to us, we will plant the land, and every year after a harvest we will give you the money, because this is how we have lived all of these many years, so we could have worked for the land and given him the money. But he just looked at us like we were some naughty children, pulling some tricks.

So, as I started to say, when the canals were built out there, we were looking at it as a future for the farmworkers to form our family farms, but the big growers would look at the water and instead of seeing people and family farms, they were looking at dollar signs. Many of the farmworking families have moved. They are living in the most miserable places available for human beings. It is not fit for human beings. They live out in the slums in crowded houses, a small house for too large families. They sleep on the floor. During the day they are forced outdoors because there is no room in those houses, so they are left free to roam the streets. So, where does the crime come from if not young adults out in the streets until about the middle of the night because they cannot come home because it is to crowded, and it is too noisy.

But what some agencies are doing, they are hiring people to investigate crime while they should be using this money to put these families to work where they can support their families, where they can see their children out there all day. This is what we have been doing. When we were promised this money, after we talked to Giffen, the people became discouraged because this man who came in from New York disappeared. We never heard from him again. So, all the families just thought that they were just given the usual runaround, so they became discouraged, except for six families, my family being included.

We looked at 40 acres that were for sale out of the Westlands Water District.

The CHAIRMAN. Outside?

Ms. DE LA CRUZ. Yes, outside, so we looked at the land and they did not have any well, they did not have a pump: the land needed to be leveled and we knew that it was going to run into quite a bit of money, money that we did not have. So, we went to a program, a war on poverty program, and we told them what we wanted to do. By this time, there were only six families left. We were able to borrow $5,000, but that year was very rainy and it was sometime in November or December when we wanted to level the land, and there was no time for the planting, so they could not do it, so we went to a friend of ours, rented 6 acres to these six families. All of the children went out, from the littlest to the oldest, were out there with their parents, including mine, and my grandchildren, my son-in-law and my daughters-in-law, would come out there and help us do the planting, the weeding, the harvesting, everything that it takes to run a farm. By the end of the harvest, we got $64,000. To us it was sort of like a dream, something that we did not expect to get $64,000. Of course, all of this money went back, and we were able to pay for 40 acres that we had looked at. We were able with this money to level the land, to dig a well, and get a used pump and start growing on our own 40 acres, and by this time there were only four families left, so we divided this 40 acres in four sections, and there are people here who have been to see our place and they are amazed at what we have been able to accomplish.

Right now, we have 10 acres; my husband and children, the ones at home and the ones that are married, and my grandchildren are doing the work. We did not plant the whole 10 acres, but the saddest part of it this year is that about 2 weeks ago, our pump broke, and we were without water for about 2 weeks. There is sandy soil out there, and we did not know it when the ~~well~~ was dug that we should have put in a concrete thing around it to keep the sand from going in, so just the pipe was put in and the sand caved in and there was a lot of pressure for the pump to get the water out of there, so it broke, and we have lost almost half of our crop, but that does not mean that we are not going on. We have already looked into getting a new well and a pump and picking whatever harvest we can get. This pump is going to cost us $16,000. Four families have to pay for that, but I do not see why we have been treated as stepchildren of the country. The people that are rich, that have the money, get more money without doing anything. They do not work at all. They get free water, and us, that are just starting, get nothing. Ten acres is not enough to make a living. It is enough to give us work, but at the end of the harvest we do not have enough money to tide us over until after the planting season when we start harvesting again, and then to have things like this, the breaking of the pump, it is going to be quite some years before we can be able to move, and our hopes of buying a house that is for sale to be moved out to our acreage where we can live there. Right now, we are traveling 40 miles a day, which is 20 miles from Fresno to Raisin City and back. That is a hardship, especially with gas prices what they are, and getting up earlier in the morning and going to bed later, and working, but I am not saying this as a form of a complaint. I am just—I am very thankful to be able to work my own land and put the seed in and watch it grow and know that I have been doing this, while in the past, working in the field for 10 hours and spending about 2 hours going to work and another 2 hours coming back because many of the times we used to travel 70 and 75 miles to work, we would come home dead tired, and I had to clean up the breakfast dishes and feed the children and get them ready for bed, and clean our supper dishes and then get things ready for the next morning's breakfast and lunch, so we could get started on our way to work.

Some nights I just prayed, oh God, I do not want to wake up. Then I thought about my children, and I said, I cannot give up, so what I am asking right now is and what I am telling you is that I also and farmworkers are opposed to the Westlands contract, as they are written, and I would like to have you, as many of you people here present in this room, to come to the hearings in Fresno where the farmworkers will be there to talk to you. They cannot come all the way to Washington. But many of you can make the trip, and please think about it and come out there and listen to us.

Also, I would like to thank you again for listening to me, and, as I said, we need a change. We need a change for social justice, and we are looking to people like you to help us. Maybe, as it was mentioned, a program can be set up where we can have some money to buy some of this land. We do not want a handout. We will pay for every cent that we get. We just want to borrow it, and there are many, many families out there in the San Joaquin Valley who are asking for the same thing.

So, I guess when I get to thinking about the way I was forced to live, it is a sad thing, but now I am working for a brighter future for my children and myself.

The CHAIRMAN. Thank you very much. We appreciate your taking the time to come and testify.

Ms. DE LA CRUZ. If there is anything I missed, and you would like to ask.

The CHAIRMAN. We will be having hearings out there in the Central Valley at a later date, and we will be hearing from a whole cross-section of people, including farmworkers. It is 1:25, so I think that we are going to have to move on. We have two more witnesses.

Ms. DE LA CRUZ. All I can say now is that we want the land. We are ready for it. Thank you.

The CHAIRMAN. Thank you.

Mr. Brody, Mr. Ralph Brody, manager and chief counsel of the Westlands Water District.

As you know, we will be conducting hearings out in California and you will have an opportunity to appear there, so if you can summarize what it is you would like to say at this time, you will have ample opportunity to testify out there. Our problem is that we were supposed to get through by noon.

STATEMENT OF RALPH M. BRODY, MANAGER-CHIEF COUNSEL, WESTLANDS WATER DISTRICT, FRESNO, CALIF.

Mr. BRODY. Mr. Chairman, I do not have a prepared statement. I have submitted to the staff responses to questions which were addressed to me in writing.

The CHAIRMAN. They will be printed in the appropriate place in the record.[1]

Mr. BRODY. In addition to that I would like to avail myself of the opportunity that if, after reading the record, to submit a written statement for the record.

The CHAIRMAN. We will be happy to have you respond to any testimony that is in the record, either in writing at your convenience, or at the time that you would appear when we have hearings in California.

Mr. BRODY. I have no specific comments to make at this time except to say that I will be willing to answer any questions that you may have of me. I would, however, I like to make one general observation. It is, indeed, pleasant to find one's judgments vindicated as I have here today. They say that if you wait long enough and if you live long enough, at least some of your judgments might become so. I can recall the times during Mr. Udall's tenure as Secretary of the Interior, when I went to the Secretary and said, there is a lot of land that is going to be coming under recordable contracts, Mr. Secretary, and I think now is the time to establish a procedure for orderly disposition of those excess lands. I think that the Department should be working on the subject. I got a pleasant yes from Mr. Udall, but nothing ever occurred.

On numerous occasions I went to Mr. Weinberg when he was in a position to do something about it. I said, look, people should know where they stand on acreage limitation and what is required. Regulations should be prepared and issued on the subject. Again, nothing was done, and to say that there was not time and that there were not sufficient people available is ridiculous because other projects, much less important than this, were undertaken at that particular point in time. Surely between 1960 and the time these two gentlemen left the Department, something could at least have been started. It is indeed sad that their dedication to the public good did not reach its current high point when they could have done something about it.

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[1] This and other supplementary material will be incorporated in a subsequent hearing volume.

Finally, I must say that I am most happy to see now the urging of a concept that I had long ago urged upon the Senate Interior Committee when you chaired hearings in 1966, Senator Nelson, and when Senator Stevenson's committee, the Labor Committee, met in San Francisco and many times in conversations with many other people and with the Department itself. I repeatedly attempted to point out that the only way you are going to get this land into the ownership of the kind of people you prefer to have farm it is to have a funding and financing program. I urged that only a program for low- or no-interest loans to be made available to these people to enable them to acquire land and to develop it and to subsist until it provided the necessary living income that could permit what you desired to be done. Unless and until that is done, then this land is not going to be put into the hands of those people you would prefer to see get it because they do not have financial ability to acquire it.

I do not think that, in the main, the large landowner cares to whom he disposes of this land to the extent that he would prefer one purchaser over another. I think that what he wants is the assurance that he will be paid for the land. That is not an unnatural thing, but to assume that—well, let me state it this way, Senator—that if today, as we look back on it, the landowners who have disposed of 100,000 acres of excess land pursuant to recordable contract, had refused to do so because they said the purchasers were not farm residents, I am almost certain that these hearings today would be for the purpose of examining the anti-land-monopoly aspects of the law as related to the refusal to sell to willing and able purchasers and whether the large landowners were frustrating the purposes of acreage limitation, as far as its anti-land-monopoly observers were concerned.

I think that in every instance, this land has been sold because it has been available and the eligible purchasers were there to buy it.

I most respectfully point out to the committee that there was more than one objective of the excess land laws, not the least of which was the breaking up of land monopolies and the prevention of the accumulation of such monopolies, and the two are somewhat similar. Still another was to provide the equitable distribution of subsidy that is involved.

Now, if the large landowner who is forced to break up his holdings cannot find a buyer or nobody will finance the purchase by a farmer who is going to live on that land, then he is going to be accused of violating the antimonopoly policy of the law, if he refuses to sell it to anyone or says he will await another buyer. Nowhere does the law require such action or inaction by him. Yet, that would be the direct result of the alleviation of the complaints you have heard in these 2 days of hearings. That concludes my general remarks.

The CHAIRMAN. I thank you very much. The question of making loan moneys of some kind available, I agree with you. Others have proposed that, too, and I think I introduced for the first time a long-term, low-interest loan for farmers about 10 years ago and several times since. We have never been able to make any headway. Of course, for those with the least resources or no resources, there is no way they can buy that kind of land or any other land without assistance.

Thank you very much. I appreciate your taking the time to come.

Former Congressman Jerome Waldie, representing Friends of the Earth. Mr. Waldie, we are sorry to hold you up for so long.

STATEMENT OF HON. JEROME R. WALDIE, A FORMER REPRESENTATIVE IN CONGRESS FROM THE 14TH CONGRESSIONAL DISTRICT OF THE STATE OF CALIFORNIA

Mr. WALDIE. Senator, I want to comment closely on the contract. My statement is with the staff, and I offer it.

The CHAIRMAN. Your statement will be printed in the record, and we would appreciate it if you could summarize because I am running late already.

[The prepared statement of Mr. Waldie follows:]

STATEMENT OF JEROME R. WALDIE, WASHINGTON REPRESENTATIVE, FRIENDS OF EARTH BEFORE JOINT HEARINGS OF SENATE SMALL BUSINESS COMMITTEE AND THE SENATE INTERIOR COMMITTEE, ON WESTLANDS WATER DISTRICT CENTRAL VALLEY, CALIF.

My name is Jerry Waldie, and I am Washington representative of Friends of the Earth, a conservation organization with national headquarters at 529 Commercial Street in San Francisco, California.

The National Reclamation Law was conceived and enacted in an idealistic, noble effort to strengthen the family farm, to conserve the Wests' water resources, and to prevent exploitation of the people's heritage.

It has been administered in a manner consciously designed to demean and to avoid those worthwhile objectives.

The Westlands Contract embodies in almost every particular the ability of the administrators of this law to join in concert with those who seek to subvert its high purpose and to thereby convert the public treasure to private use.

The incredible tolerance and neglect of the Congress over these many years of this private exploitation of public resources is inexplicable and unless remedied will justify a conclusion that it is condoned and approved.

This statement is made in opposition to what Friends of the Earth regards as maladministration of reclamation law by the Bureau of Reclamation in constructing San Luis unit of Central Valley Project, and in contracting with its local landed beneficiaries as organized in Westlands Water District. The project comprises about 600,000 acres, equal to about three-quarters the size of the State of Rhode Island, and is subsidized by the public in a amount of perhaps $1,000 per acre, unrepaid by the landowners.

At commencement of construction about 70 percent of the land within Westlands Water District was legally ineligible to receive water from Central Valley Project because it was owned in tracts exceeding 160 acres per individual landowner, the legal limit on which any owner is entitled to receive water under national reclamation law. That law states unequivocally, without time limitation, and in combination with a residence requirement to assure that the receiver of project water is the resident landowner, that

> No right to the use of water for land in private ownership shall be sold for a tract exceeding 160 acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land . . . 32 Stat. 389, 1902.

In order to strengthen administration of the preceding declaration of national policy, Congress added the specific mandate in 1914 that Before any contract is let or work begun for the construction of any reclamation project hereafter adopted, the Secretary of the Interior shall require the owners of private lands thereunder to agree to dispose of all lands in excess of the area which he shall deem sufficient for the support of a family upon the land in question. . . . 43 U.S.C. 418. 1914.

In further support of effective administration of acreage limitation Congress added in 19[illegible] that "no . . . excess lands . . . shall receive water from any project or division if the owners thereof shall refuse to execute valid recordable contracts for the sale of such lands under terms and conditions satisfactory to the Secretary of the Interior. . . ." 43 U.S.C. 423e. 1926. In 1964 Solicitor of Interior Frank J. Barry confirmed that the sections just quoted from the 1914 and 1926 statutes are "provisions of reclamation law of general application." 71 I.D. 496, 501.

During Congressional debate over whether or not to authorize construction of the project to serve Westlands Water District, Senator Paul H. Douglas, of Illinois, warned that

> . . . there is every likelihood that the big landowners . . . may be able to hold out and defeat the attempts to enforce the 160-acre limitation. . . . 105 Cong. Rec. 7861. 1959.

Denying any possibility that this could happen, Senator Thomas H. Kuchel, of California, author of the bill, recited the 1914 statute's requirement of contracts with excess-land owners agreeing prior to construction to dispose of their excess lands:

> The Senator from Illinois understands, does he not, that under Federal reclamation law, when a project such as this one is authorized by Congress, the Secretary of the Interior is required in advance of construction to enter into contracts with the landowners—the farmers—in the area . . . 105 Cong. Rec. 7862. 1959.

The administrators of the Westlands project, however, ignored the law and the Senator's assurances to Congress, and required no contracts in advance of construction.

The purpose of the Westlands project is described by Commissioner of Reclamation Floyd E. Dominy:

> . . . the district's irrigation water supply will involve three possible sources. First will be pumped water derived from . . . deep-lying aquifers. The rate of withdrawal of this source will undoubtedly be diminished as surface deliveries of project water are initiated. . . . Second will be the import of project surface water. . . . The third will be ground-water supply resulting from deep percolation losses from surface water applications, irrespective of such water's source prior to application. 110 Cong. Rec. 18090, 1964.

That is, the objective of the project is to recharge the groundwater as well as to deliver water at the surface.

On May 5, 1959, Senator Thomas H. Kuchel, seeking to reassure doubters in the Senate that the acreage limitation law would actually be enforced by its administrators, said:

> Mr. President, there is every intention on the part of the authors of the bill to have the Federal reclamation law apply completely to every drop of water which goes into the San Luis Dam and which thereafter is to be used on properties lying within the expanded Federal reclamation area. 105 Cong. Rec. 7485. 1959.

An inevitable result of recharging groundwater is to supply project water to eligible and ineligible lands alike. Senator Gaylord Nelson, of Wisconsin, pointed this out in 1964. He stated:

> The waters thus induced underground will recharge the groundwater for both the lands which are eligible to "receive" groundwater and those which are ineligible to "receive" groundwaters by reason of the "excess land laws." 110 Cong. Rec. 18087. 1964.

The draft contract now under review at these hearings recognizes this fact and circumvents enforcement of reclamation law. First, Section 16(a) of the contract recites that the project will improve groundwaters as well as provide surface deliveries. It states:

> The United States will expend up to $227,905,000 for construction of a distribution system . . . to provide facilities for the delivery of a full surface supply of water from the combined sources consisting of the San Luis Unit

> facilities and groundwater underlaying the District to approximately 550,000 acres of irrigable land . . . .

Second, Article 31 (b) of the contract recites:

> If project water . . . reaches the underground strata of excess land owned by a large landowner . . . who has not executed a recordable contract and the large landowner pumps such project water from the underground, the District will not be deemed to have furnished such water to said land . . . if such water reached the underground strata of the aforesaid excess land *as an unavoidable result of the furnishing of Project water* . . . to nonexcess lands or to excess lands with respect to which a recordable contract has been executed. (Emphasis supplied.)

In other words, the administrators of reclamation law have taken it upon themselves to grant large landowners receiving project water an exemption from Section 5 of the National Reclamation Act of 1902 that Congress has not given.

The pattern of administrators' neglect to observe and enforce the acreage limitation is matched by their failure to enforce the residency requirement in the same sentence of Section 5 of the Act of 1902. That section requires that the landowner receiving project water shall be "an actual bona fide resident on such land, or occupant thereof residing in the neighborhood." This requirement is a clear declaration against absenteeism, and against corporate farming as a substitute for family farms. Administrators have not enforced residency for over a half century. The Westlands Water District contract contains no residence obligation.

Long ago there was high level uneasiness over lower level discard of residency. A half dozen years after reclamation administrators had put residency on the shelf, one of their superiors, First Assistant Secretary of Interior E. C. Finney, handwrote this: "Personally I think the law as to residency should be repealed." Apparently he felt that residency was not securely and legally removed on the shelf where administrators had placed it. (Finney to Senator Samuel D. Nicholson, January 20, 1913.)

Secretary Finney's assumption that administrators had not removed residency from the statute book has been judicially confirmed. In 1971 when landless persons in Imperial Valley went to court on their own behalf, Federal District Judge William D. Murray held that the Department of the Interior.

> Cannot repeal an Act of Congress. . . . The fact that residency has not been required by the Department of Interior for over 55 years cannot influence the outcome of this decision. Failing to apply the residency requirement is contrary to any reasonable interpretation of the reclamation law as a whole, and is destructive of the clear purpose and intent of national reclamation policy. It is well settled that administrative practice cannot thwart the plain purpose of a valid law. (Yellen v. Hickel, 335 F. Supp 200, 207, 208, 1971).

The Bureau of Reclamation might have chosen to support this decision so vital to achievement of the national policy that they administer. Instead, it joins with absentee landowners in asking the Circuit Court of Appeals to reject it. And in the meantime it declines to observe the law as defined by Federal court.

At stake in the Westlands contract is the human environment and quality of life to be created not only on Westlands farms, but also within the rural communities they will surround and support. Senate Committees have printed and reprinted the classic study comparing Arvin with Dinuba in California's Central Valley. The former, founded upon large-scale, often corporate farms, contrasted sharply with Dinuba, founded upon moderate family-sized farms.

I need scarcely remind the Committees holding this hearing of the detailed conclusions of the Arvin-Dinuba study. Dinuba was a balanced community: Arvin was polarized. In 1946 when the Senate Small Business Committee first printed the study, Chairman Senator James E. Murray, of Montana, summarized:

> . . . the size and character of the farm holdings and operations is responsible in no small degree for the conditions in these cities. . . . in the community surrounded by big farms the social, cultural, and economic attributes of life are developed to a lesser degree than in the other community which is in the midst of an area made up primarily of smaller farms independently operated where the community welfare is of a higher order and more wholesome in every particular.
>
> The bearing on the American way of life, which is all important to all of us who seek to see the virility of this Nation go on unimpaired, is at once apparent. (Small Business and the Community. A study in Central Valley of

California on effects of scale of farm operations. Report of the special Senate committee to study problems of American small business, 79 Cong., 2 sess., pursuant to S. Res. 28, committee print no. 13, p. viii. 1946.)

The United States Supreme Court decided unanimously in 1958 that Central Valley reclamation project

> was designed . . . in order that benefits may be distributed in accordance with the greatest good to the greatest number of individuals. (Ivanhoe v. McCracken, 357 U.S. 275 at 297, 1958.)

The Westlands contract totally ignores that mandate.

MAJOR CHANGES IN THE PROPOSED NEW WESTLANDS WATER DISTRICT CONTRACT: THE TREATMENT OF "M & I" WATER (MUNICIPAL, INDUSTRIAL, AND DOMESTIC USES)

The present Westlands water service contract ("Contract Between The United States and Westlands Water District Providing For Water Service", Contract No. 14-06-200-495A, June 5, 1963) concerns itself almost entirely with water for agricultural purposes. Article 3, "Water To Be Furnished to District—Use of Interceptor Drain", makes no reference to any possible nonagricultural use of federal project water furnished to the District under the contract.

Article 12, "Municipal, Industrial, and Domestic Use of Water Furnished to District" provides, in its entirety, the following:

> 12. *Water furnished in accordance with Article 3 of this contract is for agricultural use.* Before water furnished under this contract may be delivered by the District for municipal, industrial, and domestic uses, the parties hereto shall agree upon the measurement of such water, the water service rates payable to the United States on account of the delivery for such purposes, and the time for payment thereof.

Clearly, the original Westlands water service contract relegates any M & I water use that may be made by the District to a minor, subsidiary and incidental role compared to the agricultural use of project water furnished to the District. It makes no contractual commitment by the U.S. Government to provide water for M & I use to the Westlands Water District.

The proposed new revised, consolidated and expanded Westlands contract ["Contract To Amend and Supersede Certain Contracts Between The United States and Westlands Water District and To Provide For Water Service, Construction and Repayment of The Distribution System, and Related Purposes", last revision, 11/22/1974] differs strikingly from the present contract in the prominence of place and degree of attention it gives to potential M&I water use by the District, to the potential expansion of water furnished to the District from the Central Valley Project, and to the potential linkage of these provisions.

The major substantive additions in the proposed new contract appear in Article 4, "Water and Drainage Service to be Made Available to the District", which is the heart of the water service section of the proposed contract, comparable to Article 3 of the present water service contract.

The relevant sections of Article 4, partially exerpted, are as follows:

> Article 4(d) If the District requires M&I water, *any of the water furnished pursuant to this article may be used for M&I purposes* and shall be paid for at the rate established pursuant to Article 7.
>
> Article 4(e) To the extent of the capacity of [Central Valley] Project facilities and the availability of [Central Valley] Project *water developed for use in service areas other than the San Luis Unit* service area and in excess of long-term contractual commitments of such other service areas . . . *the United States, each year, shall make available to long-term contractors in the San Luis Unit* service area an additional quantity of water, hereinafter referred to as interim water. . . .
>
> Article 4(f) *The United States*, with the support of the District, *shall strive toward the development* pursuant to Reclamation law *of additional water storage and conveyance facilities* as a part of the [Central Valley] Project *so that additional supplies of firm water can be made available for the District.*
>
> . . . *the District shall have a priority* . . . to water which is surplus to the needs of the service area of said additional water storage and conveyance facilities.

> . . . If and when firm water becomes available from the Project either from existing works or from facilities to be constructed in the future by the United States which can be furnished to the District for the remainder of the term of Part A [of the proposed contract—i.e. to the year 2008], the United States by written notice shall inform the District of the quantity and the rate per acre-foot to be paid for such water and the District shall have 6 months in which to accept such allocation.
>
> Article 4(g) *The United States each year shall furnish to the District* at Mendota Pool *such amounts of firm water* described under subdivisions (a), (b), (c), and (d) hereof [i.e. including M&I usage] *as may be requested by the District*, but not more than 50,000 acre-feet in any such year. . . . [but] *If*, after meeting the marketing requirements of the Delta-Mendota Canal service areas, . . . *there is firm water in addition* to 1,150,000 acre-feet [i.e. the basic contractual amount specified in Article 4(a)] or such larger amount as may be established pursuant to subdivision (f) of this article, *such additional water shall be allocated to the District and made available each year for the remainder of the term of Part A*. [i.e. until year 2008] . . . , any portion or all of the water made available under this subdivision may be delivered through [San Luis Unit] facilities. . . .

This pattern of contractual commitments by the Government to Westlands Water District is continued in Article 5, "Schedules":

> *(a)* Before November 1 of each year *the District shall submit* in writing to the Contracting Officer *a schedule, subject to the provisions of Article 4 hereof . . . indicating the desired times and quantities for the delivery of water* pursuant to this contract during the next year, together with a schedule . . . of the power to be supplied by the United States pursuant to Part A [i.e. the water service segment of the proposed contract]. *The United States shall attempt to deliver said water* and furnish such power *in accordance with said schedule* or any revision thereof satisfactory to the Contracting Officer submitted by the District within a reasonable time before the desired change.

A significant indication of the relative priorities assigned under the proposed contract to agricultural uses and M&I uses of water furnished through the Central Valley Project is provided in Article 12 "Water Shortage and Apportionment", which includes the following:

> *(a)* . . . In a year in which . . . there is a shortage in the quantity of water available to customers of the United States from the Project, the Contracting Officer will apportion the available water among the service areas . . . in such manner as he deems equitable and physically possible, *subject to the following limitations. . . . the quantities of water scheduled to be delivered for M&I use shall not be reduced* until the reduction in quantities of water scheduled to be delivered for agricultural use amounts to 25% of the agricultural . . . contractual commitments for that year. In the event *further* reductions are necessary, M&I, converted water, and agricultural water supplies shall be reduced by the same percentages. . . .

The reference here to "converted water" also reveals an important distinction included in the proposed contract, although not indicated as such in the formal definition section (Article 1). Article 12(a) makes reference to "quantities of water which have been *converted from agricultural use*, which in this article are treated as *agricultural water*," and also refers to "the agricultural (including converted water) contractual commitments for that year." This seems to indicate that the category "agricultural water" includes "water for agricultural use" and also "water . . . converted from agricultural use".

"Water . . . converted from agricultural use" (or "converted water") has to be "water for M&I use" since the proposed contract defines the latter term as follows: "Article 1(h) municipal, industrial, and domestic use" (hereinafter abbreviated M&I) shall mean use of water for other than agricultural use."

The distinction between "water for agricultural use" and "water for M&I use" is the commonsense one, and is given in the formal definitions (Article 1). It evidently is not, however, identical to the distinction between "agricultural water" and "M&I water", since "agricultural water" can be "converted from agricultural use", whereupon it becomes "water for M&I use" but does *not* automatically become "M&I water", but rather "converted water".

Nowhere in the proposed contract are the exact terms "agricultural water" and "M&I water" explicitly defined. They do however play an important role in the document. *The rates and methods of payment for water service* under the proposed contract (Article 7) *are specified in terms of "agricultural water" and "M&I water", not* in terms of the explicitly defined commonsense categories of "water for agricultural use" and "water for M&I use".

Thus the opportunity appears to be created for water that is contractually defined and furnished to the District as "agricultural water" to be "converted from agricultural use" without necessarily thereby becoming, under the provisions of the proposed contract, "M&I water". It should be noted that the charges for "agricultural water" specified in the proposed contract are less than ⅓ the level of charges set for "M&I water". The charges for "agricultural water", moreover, are not subject to renegotiation under the terms of the proposed contract until 1996.

At least one more aspect of the proposed contract is relevant to the obligations undertaken by the U.S. Government, in Articles 4(e), (f) and (g), to commit itself ahead of time to furnish any *extra* water that may be found or developed throughout the whole of the Central Valley Project ("water . . . in excess of long-term contractual commitments of . . . other service areas") exclusively to the Westlands Water District. As set forth in Article 12(b), this provision *appears actually to eliminate the possibility of any new long-term federal contracts for water service, anywhere else* in the Central Valley *other* than in Westlands. In its entirety, the provision states:

> (*b*) The United States *agrees that it will not* voluntarily and knowingly, *by the execution of new contracts establishing additional long-term contractual commitments for water* from the Sacramento-San Joaquin Delta or otherwise, *do anything which would limit its ability to deliver water* that is available to it from the Sacramento-San Joaquin Delta *to the District* and others presently entitled thereto.

Mr. WALDIE. Let me just address a comment that I kept hearing about the 160 acres not being a viable entity because it is not economic, and I cannot understand why an economic entity of 160 acres is so worthless that it cannot be farmed but so expensive that you cannot purchase it. The concept seemed to me to be a little bit peculiar, and, if I were interested in getting the land to the people; I would worry less about providing Federal financing than I would about depriving the large landowner who puts his excess land on the market of the benefits of the water that has been supplied over the 10 years that it was under recorded contract.

I know that there is a fiction engaged in that the increment of value attributed to the application of project delivered waters, is not in fact taken into account in the price of the land, but that simply is not so. If he were forced to sell that land at prewater prices, prerecorded prices, he did, after all, have the benefit of subsidized water for 10 years, the price would be realistic and fair. And we ought to make him sell that land to people who want to buy it for pre-10-years-ago price land, so that we could really find out how to break these large landholdings up and how to distribute them to people who want to farm, and we would not have to worry so much about financing the purchase of those lands. Those lands would be available to the people at a price they could afford to pay, and it would be a viable contract.

The contract that is before you, Senator, I think is really one that deserves a great deal of scrutiny before it is approved. There is a peculiar emphasis, that is not contained at all in the original contract that this supersedes, on municipal and industrial water. There simply was no provision for municipal and industrial water in the original contract. There was an allusion to the fact that there may be a need at some future date for municipal and industrial water, and if that need, in fact, arose, they would then set up a pricing structure for municipal and industrial water and a means of costing it and measuring it, but it was all to be set up in the future when the need arose.

Now, all of a sudden, this contract has as its primary emphasis provisions compelling the provision of municipal and industrial water to Westlands, setting up the pricing of it, setting up the formula for measuring it, and furthermore giving Westlands the total right to convert all of the water delivered under the contract, all the water, not an allocated amount, but all the water to municipal and industrial purposes, if they so desire.

Now, I do not understand that, and I particularly do not understand that in light of the Department of the Interior's letter of February 14, 1975, accompanying the contract, where I expected to find a fairly elaborate analysis of why there was such a significant need now and there was not in 1963, when the original contract was executed, why there is now such a significant need for municipal and industrial water that a great deal of this new contract has to deal with that, and the only reference that I have in that letter of February 14, 1975, to any different need for municipal and industrial water than that which exists in the original contract is the following paragraph:

> The only significant need for municipal, industrial water in the district service area at the present time is at the Lamore Naval Air Station, but additional use may develop, and the contract so provides.

There is no reason, whatsoever, since the additional use has not developed and there is not any further allusion to the prospects of its developing, why this contract does not contain the original contract provision providing that when such time as a need for municipal and industrial water does, in fact, come about, the parties will enter into an agreement, disposing of that matter. That need does not now exist; therefore, it does seem to me that the old contract should be changed in that regard.

I call that particularly to your attention, Senator; it has not been explained by the Department of the Interior, but I presume it should be explained by Westlands. What troubles me, if they have the right to convert all the water delivered—and there are massive new amounts of water to be delivered—there similarly is a commitment in this contract not found in the old, that the United States agreed to participate with Westlands in developing additional sources and supply of water. If water that, under the Reclamation Act is to go to irrigation purposes, now can be converted as a primary emphasis of the contract to municipal and industrial water, every drop of it, that causes me to be concerned that excess lands will not be sold to farmers at all. They will be sold to subdividers, and they will be divided and subdivided and it will be to domestic and municipal use that you will be putting reclamation waters, so maybe we ought to consider dropping from 160 acre excess to one building lot in a municipal district and anything over and above that would be excess lands.

That is all I wanted to say, Senator. I thank you for allowing me to be here.

The CHAIRMAN. Thank you very much, Mr. Waldie, for taking the time to come and appear today. We appreciate it.

That will conclude the hearings.

[Whereupon, at 1:37 p.m., the committees adjourned subject to the call of the Chair.]

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